

**OFFICE LEASE**

**by and between**

## OFFICE LEASE

### Section 1. ***Basic Lease Provisions.***

- 1.1    ***Parties:*** This Office Lease (this "Lease"), dated effective as of \_\_\_\_\_, 2021 (the "Effective Date"), is made by and between
- 1.2    ***Premises:*** Suite No. \_\_\_\_\_ located in the office building having the address referenced below (the "Building"), as shown on Exhibit "A".
- 1.3    ***Rentable Square Footage of Premises:*** Approximately 9,158 rentable square feet ("RSF").
- 1.4    ***Rentable Square Footage of Building:*** Approximately 220,583 RSF.
- 1.5    ***Building Address:***
- 1.6    ***Use:*** Tenant may use the Premises for a medical office and ancillary uses related thereto.
- 1.7    ***Initial Term:*** Commencing on the Effective Date and expiring on the last day of the sixty-fourth (64<sup>th</sup>) month following the Commencement Date.
- 1.8    ***Commencement Date:*** The Completion Date, as defined in Exhibit "E".
- 1.9    ***Base Rent/Initial Term:***

<u>Months</u>	<u>RSF/Year</u>	<u>Yearly</u>	<u>Monthly</u>
1*-4	Abated	Abated	Abated
5-16	\$26.50	\$242,687.00	\$20,223.92
17-28	\$27.30	\$249,967.61	\$20,830.63
29-40	\$28.11	\$257,466.64	\$21,455.55
41-52	\$28.96	\$265,190.64	\$22,099.22
53-64	\$29.83	\$273,146.36	\$22,762.20

\*Commencement Date

- 1.10    ***Security Deposit:*** 0.00
- 1.11    ***Tenant's Share:*** 4.15%
- 1.12    ***Number of Parking Spaces:***

Tenant shall be allocated, at no additional cost, unreserved parking spaces in the Building Garage (on an as needed basis) at a ratio of 3/1,000 rentable square feet of space in the Premises. Tenant may reserve 4 of these parking spaces for its exclusive use.

- 1.13    ***Base Year:*** 2022
- 1.14    ***Due on Signing:*** \$20,223.92 (Base Rent for first month due)
- 1.15    ***Tenant Broker:***
- 1.16    ***Exhibits to Lease***

Exhibit A – Location of Premises  
Exhibit A-1– Land  
Exhibit B – Form of Acceptance Letter  
Exhibit C-Rules and Regulations  
Exhibit D – Form of Tenant Estoppel Certificate  
Exhibit E – Work Letter Agreement  
Exhibit F – Intentionally Omitted  
Exhibit G–Option to Extend  
Exhibit H–Right of First Refusal

1.17 ***Address for Notices:***

***Landlord:***

***Tenant:*** Premises

1.18 ***Guarantor:*** N/A.

This Lease consists of the Basic Lease Provisions provided in Section 1 above, those provisions below in Section 2 thru Section 66 ("Standard Lease Provisions"), and all exhibits referenced in Section 1.16. In the event of a conflict between the Basic Lease Provisions and the Standard Lease Provisions, the Standard Lease Provisions shall control.

**Section 2.** ***Premises.***

2.1 ***Lease of Premises and Definition of Project.*** Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, upon all of the conditions set forth herein, the Premises, together with certain rights to the Common Areas as hereinafter specified. The Building, the Common Areas (as defined below), the land upon which the same are located (as more particularly described on Exhibit "A-1" attached hereto), along with all other buildings and improvements thereon or thereunder, or to be constructed thereon or thereunder, including all parking facilities, are herein collectively referred to as the "Project." Notwithstanding anything to the contrary herein, Landlord does not grant in this Lease any rights to or easements for light, air or view in connection with Project. In addition to those reservations set forth in Section 28 below, Landlord hereby reserves to itself the land on which the Building is situated, the Building below the improved floor of each floor of the Premises, the Building above the ceiling of each floor of the Premises, the exterior of the Premises and the areas on the same floor outside the Premises, along with the areas within the Premises required for the installation and repair of utility lines and other items required to serve other tenants of the Building.

2.2 ***Calculation of Size of Building and Premises.*** Landlord and Tenant hereby stipulate and agree that the rentable square footage of the Premises and the rentable square footage of the Building set forth in Sections 1.3 and 1.4, respectively, are correct and shall not be subject to re-measurement. Notwithstanding the foregoing, if in accordance with the terms of this Lease the Premises is subject to the installation and construction of improvements and such work contemplates the relocation or construction of demising walls, then, promptly after the substantial completion of such work, Landlord will cause its architect to measure the rentable square footage of the Premises, such measurement to be performed in accordance with the methods of measuring rentable square feet, as that method is described in the American National Institute Publication ANSI Z65.1-2017, as promulgated by the Building Owners and Managers Association (the "BOMA Standard"). The determination of Landlord's architect's shall be conclusive. If the rentable square footage of the Premises differs from that set forth in Section 1.3, then the Base Rent and any advance rent shall be appropriately adjusted by multiplying the new number of rentable square feet in the Premises by the per square foot rental reflected in Section 1.9. If the number of rentable square feet in the Premises is changed, Tenant's Share shall be appropriately adjusted as provided in Section 4.2(a). If requested by Landlord, the parties shall execute and deliver to one another an amendment to this Lease reflecting such adjustments.

2.3 ***Common Areas-Defined.*** The term "Common Areas" is defined as all areas and facilities outside the Premises and within the exterior boundary line of the Project that are designated by Landlord from time to time for the general non-exclusive use of Landlord, Tenant and the other tenants of the Project and their respective employees, suppliers, customers and invitees, including, but not limited to, common entrances, lobbies, corridors, stairwells, public rooms, 10

elevators, parking areas, loading and unloading areas, roadways and sidewalks. Landlord may also designate other land and improvements outside the boundaries of the Project to be a part of the Common Areas, provided that such other land and improvements have a reasonable and functional relationship to the Project.

Section 3.      Term.

**3.1      *Term and Commencement Date.*** The Initial Term of this Lease is as specified in Section 1.7 and the Commencement Date is as is specified in Section 1.8. If the Commencement Date is other than the first day of a calendar month, then the Initial Term shall be extended for so many days as shall be required to end on the last day of a calendar month. When the actual Commencement Date is established by Landlord, Tenant shall, within thirty (30) days after Landlord's request, complete and execute the letter attached hereto as Exhibit "B" and deliver it to Landlord. Tenant's failure to execute the letter attached hereto as Exhibit "B" within said thirty (30) day period shall constitute Tenant's acknowledgement of the truth of the facts contained in the letter delivered by Landlord to Tenant. The "Term" of this Lease shall be the Initial Term, plus any Extension Term (if applicable).

**3.2      *Tender of Possession.*** Possession of the Premises shall be deemed tendered to and accepted by Tenant on the Commencement Date.

Section 4.      Rent.

**4.1**      Tenant shall pay timely to Landlord the Base Rent for the Premises set forth in Section 1.9 without offset or deduction (except as otherwise expressly provided for herein) on the first day of each calendar month during the Term by ACH payment, or at such other place or in such other manner as designated from time to time by Landlord in writing. Within ten (10) business days after the full execution of this Lease, Tenant shall pay to Landlord the prepaid rent described in Section 1.9, if any. Base Rent for any period occurring during the Term hereof which is less than one month shall be prorated based upon the actual number of days of the calendar month involved. Base Rent and all other amounts payable to Landlord hereunder shall be payable to Landlord in lawful money of the United States, and Tenant shall be responsible for delivering said amounts to Landlord at the address stated herein or to such other persons or to such other places as Landlord may designate in writing. For purposes of this Lease, the term "rent" or "Rent" shall mean Base Rent, Additional Rent (as defined in Section 38 of the Lease and which includes Tenant's Share of Excess Operating Expenses), and any and all other rents, costs, expenses, liabilities, and amounts which Tenant is required to pay to Landlord under the terms of this Lease.

**4.2      *Operating Expenses.*** Tenant shall pay to Landlord during the Term hereof, in addition to the Base Rent, Tenant's Share of all Operating Expenses incurred or paid by Landlord from time to time to the extent the Operating Expenses for the applicable year exceed the Operating Expenses for the Base Year (the "Excess Operating Expenses"). If less than all of the rentable square feet in the Project is occupied by tenants, or if less than one hundred percent (100%) of the rentable area in the Building is provided with building standard services, Landlord may adjust Operating Expenses for such calendar year to equal the amount of Operating Expenses that would have been incurred had the Project been ninety-five percent (95%) occupied and as though ninety-five percent (95%) of the Building had been provided with building standard services throughout such calendar year (hereinafter the "Grossed Up Operating Expenses"). Landlord's good faith estimate of Grossed Up Operating Expenses shall not be subject to challenge or recalculation available for review by Tenant, and shall be applicable only to those Operating Expenses that are variable and therefore increase or decrease as the occupancy of the Project increases or decreases. Tenant's Share of Excess Operating Expenses shall be determined in accordance with the following provisions:

(a)      "Tenant's Share" is defined as the percentage set forth in Section 1.11, which percentage has been determined by dividing the rentable square footage of the Premises by the rentable square footage of the Building and multiplying the resulting quotient by one hundred (100). In the event that the number of rentable square feet in the Project or the Premises changes, Tenant's Share shall be appropriately adjusted in the year the change occurs, and Tenant's Share for such year shall be determined on the basis of the days during such year that each Tenant's Share was in effect.

(b)      "Operating Expenses" shall include all costs, expenses, fees and disbursements of every kind which Landlord incurs, pays or becomes obligated to pay in connection with or attributable to the Project, including but not limited to, the following items: (i) all costs, expenses and fees associated with or attributable to the ownership, management, operation, repair, maintenance, improvement, alteration and replacement of the Project, or any part thereof, including but not limited to, the following: (A) all surfaces, coverings, decorative items, carpets, drapes, window coverings, parking areas, loading and unloading areas, trash areas, roadways, sidewalks, stairways, walls, structural elements, landscaped areas,

striping, bumpers, irrigation systems, lighting facilities, building exteriors and roofs, fences and gates; (B) all heating, ventilating and air conditioning equipment ("HVAC") (including, but not limited to, the cost of replacing or retrofitting HVAC equipment to comply with laws regulating or prohibiting the use or release of chlorofluorocarbons or hydrochlorofluorocarbons), plumbing, mechanical, electrical systems, life safety systems and equipment, telecommunication equipment, elevators, escalators, tenant directories, fire detection systems including sprinkler system maintenance and repair; (ii) the cost of trash disposal, janitorial services and security services and systems; (iii) the cost of all insurance purchased by Landlord and enumerated in Section 8 of this Lease, including any commercially reasonable deductibles; (iv) the cost of water, sewer, gas, electricity, and other utilities available at the Project and paid by Landlord; (v) the cost of labor, salaries and applicable fringe benefits incurred by Landlord; (vi) the cost of materials, supplies and tools used in managing, maintaining and/or cleaning the Project; (vii) the cost of accounting fees, management fees (not to exceed 4% of total rents from the Building), legal fees and consulting fees attributable to the ownership, operation, management, maintenance and repair of the Project plus the cost of any space occupied by the property manager and leasing agent (if Landlord is the property manager, Landlord shall be entitled to receive a fair market management fee); (viii) the cost of operating, replacing, modifying and/or adding improvements or equipment mandated by any newly enacted law, statute, regulation or directive of any governmental agency and any repairs or removals necessitated thereby (including, but not limited to, the cost of complying with the Americans With Disabilities Act and regulations of the Occupational Safety and Health Administration); (ix) payments made by Landlord under any easement, license, operating agreement, declaration, restrictive covenant, or instrument pertaining to the payment or sharing of costs among property owners; (x) any business property taxes or personal property taxes imposed upon the fixtures, machinery, equipment, furniture and personal property used in connection with the operation of the Project; (xi) the cost of all business licenses, any gross receipt taxes based on rental income or other payments received by Landlord, commercial rental taxes or any similar taxes or fees; (xii) transportation taxes, fees or assessments, including but not limited to, mass transportation fees, trip fees, regional and transportation district fees, (xiii) all costs and expenses associated with or related to the implementation by Landlord of any transportation demand management program or similar program; (xiv) fees assessed by any air quality management district or other governmental or quasi-governmental entity regulating pollution; (xv) the cost of any other service provided by Landlord or any cost that is elsewhere stated in this Lease to be an "Operating Expense;" and (xvi) all Real Property Taxes (as defined herein). Landlord shall have the right but not the obligation, from time to time, to equitably allocate some or all of the Operating Expenses among different tenants of the Project or among the different buildings which comprise the Project (the "Cost Pools"). Such Cost Pools may include, but shall not be limited to, the office space tenants of the Project and the retail space tenants of the Project. Notwithstanding the foregoing or anything else contained herein to the contrary, none of the following shall constitute an "Operating Expense" for purposes of this Lease: (A) the cost of alterations to space in the Project leased or to be leased to others; (B) depreciation, interest and principal payments of mortgages and other debt costs, if any; (C) expenses for capital improvements made to the Project except any capital improvement which results in savings of labor or other costs to the extent of the lesser of the cost of such capital improvement amortized over its useful life or the annual cost savings resulting from such capital improvement; (D) those expenses incurred in leasing space in the Project, including marketing expenses, leasing commissions, rent concessions and tenant improvements; (E) costs and expenses incurred in correcting defects in the construction of the Project; (F) any cost or expenditure or any portion thereof for which Landlord has been reimbursed or is entitled to reimbursement, whether by insurance proceeds or otherwise, except reimbursements or other payments from other tenants of the Project in respect to costs and expenses which are Operating Expenses; (G) any payments for services made to entities affiliated with or related to Landlord to the extent that such payments exceed fair market value for such services; (H) employee costs and expenses of Landlord, except those incurred for the operation and maintenance of the Project; (I) overhead and administrative costs of Landlord; (J) political contributions; (K) any items of fine art or antiquities; and (L) costs for services and amenities available to other tenants or occupants of the Project, but not Tenant.

(c) If the cost incurred in making an improvement or replacing any equipment is not properly deductible in full as an expense in the year incurred, the cost shall be amortized over the useful life of the improvement or equipment, as reasonably determined by Landlord.

(d) Following the first calendar year of the Term, and then each successive year, Landlord shall provide Tenant with a good faith estimate of the Operating Expenses for such calendar year and Tenant's Share of such estimated Excess Operating Expenses for such calendar year and Tenant shall make monthly payments (payable in advance on the first day of each month with Tenant's payment of Base Rent) equal to one-twelfth (1/12) of Tenant's Share of such estimated Excess Operating Expenses. Landlord shall use reasonable efforts to provide such estimate of Excess Operating Expenses to Tenant prior to the beginning of the calendar year to which such estimate applies. From time to time during any calendar year, Landlord may adjust its estimate of Excess Operating Expenses for such calendar year and provide such adjusted estimate to Tenant. Tenant shall have a period of thirty (30) days from its receipt of Landlord's estimate (or any adjusted estimate) to appropriately adjust its monthly installments of Excess Operating Expenses as may be required by such

estimate or adjusted estimate so that, by the end of the calendar year in question, Tenant shall have paid all of Tenant's Share of Excess Operating Expenses as so estimated by Landlord . Any amounts paid by Tenant to Landlord based on any estimate or adjusted estimate provided by Landlord shall be subject to reconciliation when the actual Excess Operating Expenses are available for such calendar year. Landlord shall use commercially reasonable efforts to deliver to Tenant within one hundred eighty (180) days after the expiration of each calendar year a reasonably detailed statement (the "Statement") showing the actual Operating Expenses incurred during such year, Tenant's Share thereof, and the aggregate of Tenant's payments of Excess Operating Expenses during such period. Landlord's failure to deliver the Statement to Tenant within said period shall not constitute Landlord's waiver of its right to collect said amounts or otherwise prejudice Landlord's rights hereunder. If Tenant's payments of Excess Operating Expenses for the period covered by the Statement exceed, in the aggregate, Tenant's Share of actual Excess Operating Expenses as indicated on the Statement, Tenant shall be entitled to credit the amount of such overpayment against Tenant's Share of estimated Excess Operating Expense next falling due. If Tenant's payments of Excess Operating Expenses for the period covered by the Statement were less than Tenant's Share of actual Excess Operating Expenses as indicated on the Statement, Tenant shall pay to Landlord the amount of the deficiency within sixty (60) days after delivery by Landlord to Tenant of the Statement. Landlord and Tenant shall forthwith adjust between them by cash payment any balance determined to exist with respect to that portion of the last calendar year of the Term for which Tenant is responsible for Excess Operating Expenses, notwithstanding that the Term may have terminated before the end of such calendar year; and this provision shall survive the expiration or earlier termination of the Lease.

(e) The computation of Tenant's Share of Excess Operating Expenses is intended to provide a formula for the sharing of costs by Landlord and Tenant and will not necessarily result in the reimbursement to Landlord of the exact costs it has incurred.

(f) If Tenant disputes the amount set forth in the Statement, Tenant shall have the right, at Tenant's sole expense, to cause Landlord's books and records, with respect to only the Project for the calendar year which is the subject of the Statement, to be audited by a certified public accountant mutually acceptable to Landlord and Tenant. The audit shall take place at the offices of Landlord where its books and records are located at a mutually convenient time during Landlord's regular business hours. Tenant's Share of Excess Operating Expenses shall be appropriately adjusted based upon the results of such audit, and the results of such audit shall be final and binding upon Landlord and Tenant. Notwithstanding the foregoing, Tenant shall have no right to conduct an audit or to give Landlord notice that it desires to conduct an audit at any time Tenant is in default under the Lease. The accountant conducting the audit shall be compensated on an hourly basis and shall not be compensated based upon a percentage of overcharges it discovers. No subtenant shall have any right to conduct an audit, and no assignee shall conduct an audit for any period during which such assignee was not in possession of the Premises. Tenant's right to undertake an audit with respect to any calendar year shall expire ninety (90) days after Tenant's receipt of the Statement for such calendar year, and such Statement shall be final and binding upon Tenant and shall, as between the parties, be conclusively deemed correct, absent manifest error, at the end of such ninety (90) day period, unless prior thereto Tenant shall have given Landlord written notice of its intention to audit Operating Expenses for the calendar year which is the subject of the Statement. If Tenant gives Landlord notice of its intention to audit Operating Expenses, it must commence such audit within sixty (60) days after such notice is delivered to Landlord, and the audit must be completed within one hundred twenty (120) days after such notice is delivered to Landlord. If Tenant does not commence and complete the audit within such periods, the Statement which Tenant elected to audit shall be deemed final and binding upon Tenant and shall, as between the parties, be conclusively deemed correct. Tenant agrees that the results of any Operating Expense audit shall be kept strictly confidential by Tenant and shall not be disclosed to any other person or entity.

**Section 5. Security Deposit.** Contemporaneously with the execution of this Lease, Tenant shall pay to Landlord the Security Deposit, which shall be held by Landlord without liability for interest and as security for the performance by Tenant of its obligations under this Lease, it being understood that the Security Deposit shall not be considered an advance payment of Rent or a measure of Landlord's damages in case of an event of default hereunder. Landlord may, from time to time and without prejudice to any other remedy, after the passage of any notice and cure periods set forth in this Lease, use all or a part of the Security Deposit to (a) reimburse Landlord for any and all Rent or other sums due hereunder that have not been paid in full by Tenant, or (b) perform any obligation which Tenant was obligated, but failed, to perform hereunder. Following any such application of the Security Deposit, Tenant shall pay to Landlord on demand the amount so applied in order to restore the Security Deposit to its original amount and if Tenant fails to do so within 5 days of such demand, it shall constitute an event of default. Within a reasonable time after the Term ends, which shall not exceed sixty (60) days after Tenant has provided Landlord with written notice of Tenant's forwarding address, Landlord shall return to Tenant the balance of the Security Deposit not applied to satisfy Tenant's obligations with a written description and itemization of any deduction. Tenant shall not be entitled to any interest on the Security Deposit. If Landlord transfers its interest in the Premises, then

Landlord may assign the Security Deposit to the transferee and Landlord thereafter shall have no further liability for the return of the Security Deposit.

Section 6. Use.

6.1 **Use.** Tenant may occupy and use the Premises only for the purpose set forth in Section 1.6 and for no other purpose. If Section 1.6 gives Tenant the right to use the Premises for general office use, by way of example and not limitation, general office use shall not include medical office use or any similar use, laboratory use, classroom use, an executive suite or similar use, any use not characterized by applicable zoning and land use restrictions as general office use, any use which would require Landlord or Tenant to obtain a conditional use permit or variance from any federal, state or local authority, or any other use not compatible, in Landlord's sole judgment, with a first class office building in the State in which the Building is located. Notwithstanding any permitted use inserted in Section 1.6, Tenant shall not use the Premises for any purpose which would violate the Project's certificate of occupancy, any conditional use permit or variance applicable to the Project or violate any covenants, conditions or other restrictions applicable to the Project, or which would create an extraordinary fire hazard or result in an increased rate of insurance on the Building or its contents. If the rate of insurance on the Building or its contents increases and such increase is conclusively proved to be solely on account of Tenant's acts, then Tenant shall pay to Landlord the amount of such increase on demand, and acceptance of such payment shall not constitute a waiver of any of Landlord's other rights.

6.2 **Compliance with Law.** Tenant shall, at Tenant's sole expense, promptly comply with all applicable laws, ordinances, rules, regulations, orders, certificates of occupancy, conditional use or other permits, variances, covenants and restrictions of record, the recommendations of Landlord's engineers or other consultants, and requirements of any fire insurance underwriters, rating bureaus or government agencies, now in effect or which may hereafter come into effect, whether or not they reflect a change in policy from that now existing, following the Effective Date or any part of the Term hereof, relating in any manner to the Premises or the occupation and use by Tenant of the Premises; provided, however, Tenant shall not be required to make any structural changes to the Premises nor incur any capital expenses in connection therewith unless such actions are necessitated by Tenant's particular use of the Premises, as opposed to office and medical office uses generally. Tenant shall, at Tenant's sole expense, comply with all requirements of the Americans With Disabilities Act that relate to the interior of the Premises and/or Tenant's use thereof, and all federal, state and local laws and regulations governing occupational safety and health; provided, however, Tenant shall not be required to make any structural changes to the Premises nor incur any capital expenses in connection therewith unless such actions are necessitated by Tenant's particular use of the Premises, as opposed to office and medical office uses generally. Tenant shall conduct its business and use the Premises in a lawful manner and shall not use or permit the use of the Premises or the Common Areas in any manner that will tend to create waste or a nuisance or shall tend to disturb other occupants of the Project. Tenant shall obtain, at its sole expense, any permit or other governmental authorization required to operate its business from the Premises. Landlord shall not be liable for the failure of any other tenant or person to abide by the requirements of this Section or to otherwise comply with applicable laws and regulations, and Tenant shall not be excused from the performance of its obligations under this Lease due to such a failure.

6.3 **Condition of Premises.** Except as otherwise expressly provided herein, Tenant agrees to accept the Premises and the Project in their condition existing as of the date this Lease is executed by Landlord and Tenant, subject to all applicable federal, state and local laws, ordinances, regulations and permits governing the use of the Premises, the Project's certificate of occupancy, any applicable conditional use permits or variances, and any easements, covenants or restrictions affecting the use of the Premises or the Project. Except as otherwise expressly set forth herein, Tenant acknowledges that it has satisfied itself by its own independent investigation that the Premises and the Project are suitable for its intended use, and that neither Landlord nor Landlord's agents has made any representation or warranty as to the present or future suitability of the Premises, or the Project for the conduct of Tenant's business. In furtherance thereof, **TENANT HEREBY WAIVES THE BENEFIT OF ANY IMPLIED WARRANTY THAT THE PREMISES ARE SUITABLE FOR ANY COMMERCIAL OR OTHER PARTICULAR PURPOSE.**

Section 7. Maintenance, Repairs and Alterations.

7.1 **Landlord's Obligations.** Landlord shall use commercially reasonable efforts to keep the Project (excluding the interior of the Premises and space leased to other occupants of the Project) in good condition and repair. If plumbing pipes, electrical wiring, HVAC ducts or vents situated within the Premises are in need of repair, Tenant shall promptly notify Landlord, and Landlord shall cause the repairs to be completed within a reasonable time, and Tenant shall pay therefor the cost of the repairs to Landlord within thirty (30) days following Tenant's receipt of an invoice from Landlord. Except as

provided in Section 9.3, there shall be no abatement of rent or liability to Tenant on account of any injury or interference with Tenant's business with respect to any improvements, alterations or repairs made by Landlord to the Project or any part thereof. In the event Landlord fails to commence to perform its obligations required under this Lease (following Landlord's receipt of written notice from Tenant specifying in detail such failure) and thereafter fails to diligently prosecute the same to completion and if such failure by Landlord materially affects Tenant's health and safety and/or the operations of Tenant's business, Tenant may provide a written notice ("First Notice") of such failure to Landlord. In such event, Landlord shall have five (5) business days after receipt of such First Notice to commence (or, if applicable, to diligently prosecute) the cure of such failure, subject however to those delays caused by acts of God, governmental restrictions or regulations or controls, judicial orders, enemy or hostile government actions, civil commotion, fire or other casualty, or other causes beyond the control of Landlord (excluding financial hardship) ("Force Majeure Delays"). If Landlord fails to timely commence (or, if applicable, to diligently prosecute) the cure of such failure after Landlord's receipt of the First Notice, then Tenant may provide a second written notice ("Second Notice") of such failure to Landlord. In such event, Landlord shall have five (5) business days after receipt of such Second Notice to commence (or, if applicable, to diligently prosecute) the cure of such failure, subject however to Force Majeure Delays. If Landlord fails to timely commence (or, if applicable, to diligently prosecute) the cure such failure after Landlord's receipt of the Second Notice, then Tenant shall, in addition to other available remedies under applicable law, have the right to take such actions within the Premises as may be reasonably required to cure such failure. Landlord shall reimburse Tenant within thirty (30) days of receipt of an invoice from Tenant with the underlying invoices and proof of payment attached thereto, for the reasonable costs incurred by Tenant in effectuating a cure in accordance with this paragraph. If Landlord shall fail to timely make such payment, Tenant may, in addition to other remedies available to Tenant under applicable law, give to Landlord written notice of such failure and if Landlord fails to reimburse Tenant within ten (10) business days after receipt of such written notice, Tenant may offset such amounts against the next payment(s) of Rent coming due under this Lease.

## 7.2 *Tenant's Obligations.*

(a) Subject to the requirements of Section 7.3, Tenant shall be responsible for keeping the Premises in good condition and repair, at Tenant's sole expense. By way of example, and not limitation, Tenant shall be responsible, at Tenant's sole expense, for repairing and/or replacing carpet, marble, tile or other flooring, paint, wall coverings, corridor and interior doors and door hardware, telephone and computer equipment, interior glass, window treatments, ceiling tiles, shelving, cabinets, millwork and other tenant improvements. In addition, Tenant shall be responsible for the installation, maintenance and repair of all telephone, computer and related cabling from the telephone terminal room on the floor on which the Premises is located to and throughout the Premises, and Tenant shall be responsible for any loss, cost, damage, liability and expense (including attorneys' fees) arising out of or related to the installation, maintenance, repair and replacement of such cabling. If Tenant fails to keep the Premises in good condition and repair and such failure shall continue for fifteen (15) days after Landlord's written notice thereof to Tenant, Landlord may, but shall not be obligated to, make any necessary repairs. If Landlord makes such repairs, Landlord may bill Tenant for the reasonable cost of the repairs as additional rent, and said additional rent shall be payable by Tenant within thirty (30) days.

(b) On the last day of the Term hereof, or on any sooner termination, Tenant shall surrender the Premises to Landlord in good condition, ordinary wear and tear and casualty damage excepted, clean and free of debris and Tenant's personal property. Tenant shall repair any damage to the Premises occasioned by the installation or removal of Tenant's trade fixtures, furnishings and equipment. Tenant shall leave the electrical distribution systems, plumbing systems, lighting fixtures, HVAC ducts and vents, window treatments, wall coverings, carpets and other floor coverings, doors and door hardware, millwork, ceilings and other tenant improvements at the Premises and in as good condition as on the date of Tenant's taking possession of the Premises, ordinary wear and tear excepted.

## 7.3 *Alterations and Additions.*

(a) Except as provided in any work letter agreement attached hereto, if any, Tenant shall not, without Landlord's prior written consent, which consent shall not be unreasonably withheld, make any alterations, improvements, additions or utility installations (hereinafter collectively referred to as "Alterations") in, on or about the Premises or the Project. Alterations shall include, but shall not be limited to, the installation or alteration of security or fire protection systems, communication systems, millwork, shelving, built-in file retrieval or storage systems, carpeting or other floor covering, window and wall coverings, electrical distribution systems, lighting fixtures, telephone or computer system wiring, HVAC and plumbing. Landlord may condition its consent to any Alterations on Tenant's removal of such Alterations at the expiration of the expiration of the Term and the restoration of the Premises and the Project to their prior condition, at *ng else contained herein to the contrary, Tenant may, without* *L*

Landlord's consent, make cosmetic Alterations to the interior of the Premises as long as such Alterations do not (i) require a building permit; (ii) involve any part of the structure or systems of the Building; or (iii) cost more than \$50,000 in any consecutive 12-month period (collectively "Permitted Alterations"). If, as a result of any Alteration made by Tenant, Landlord is obligated to comply with the Americans With Disabilities Act or any other law or regulation and such compliance requires Landlord to make any improvement or alteration to any portion of the Project, as a condition to Landlord's consent, Landlord shall have the right to require Tenant to pay to Landlord prior to the construction of any Alteration by Tenant, the entire cost of any improvement or alteration Landlord is obligated to complete by such law or regulation. Except with respect to Permitted Alterations, should Landlord permit Tenant to make its own Alterations, Tenant shall use only such contractor, architect or engineer as have been expressly approved by Landlord, and Landlord may require Tenant to provide to Landlord, at Tenant's sole cost and expense, a payment and performance completion bond in an amount equal to the estimated cost of such Alterations, to insure Landlord against any liability for mechanic's and materialmen's liens and to insure completion of the work. In addition, Tenant shall pay to Landlord a fee equal to three percent (3%) of the cost of the Alterations to compensate Landlord for the overhead and other costs it incurs in reviewing the plans for the Alterations and in monitoring the construction of the Alterations. Except with respect to Permitted Alterations, should Tenant make any Alterations without the prior approval of Landlord, or use a contractor, architect or engineer not expressly approved by Landlord, Landlord may, at any time following the Effective Date, require that Tenant remove all or part of the Alterations and return the Premises to the condition it was in prior to the making of the Alterations. In the event Tenant makes any Alterations, Tenant agrees to obtain or cause its contractor, architect or engineer to obtain, prior to the commencement of any work, "builders risk" insurance (non-reporting, causes of loss-special form) in an amount approved by Landlord and workers' compensation insurance. Tenant shall indemnify and hold harmless Landlord and its partners, directors, officers, shareholders, employees, investment advisors and agents from and against all costs (including attorneys' fees and costs of suit), losses, liabilities, or causes of action arising out of or relating to any alterations, additions or improvements made by Tenant to the Premises, except to the extent caused by the negligence or fault of Landlord and its partners, directors, officers, shareholders, employees and agents.

(b) Any alterations in or about the Premises that Tenant shall desire to make which require Landlord's consent shall be presented to Landlord in written form, with plans and specifications which are sufficiently detailed to obtain a building permit. If Landlord consents to an Alteration, the consent shall be deemed conditioned upon Tenant acquiring a building permit from the applicable governmental agencies, furnishing a copy thereof to Landlord prior to the commencement of the work, and compliance by Tenant with all conditions of said permit in a prompt and expeditious manner. Tenant shall provide Landlord with as-built plans and specifications for any Alterations made to the Premises.

(c) Tenant shall pay, when due, all claims for labor or materials furnished or alleged to have been furnished to or for Tenant at or for use in the Premises, which claims are or may be secured by any mechanic's or materialmen's lien against the Premises or any interest therein. If Tenant shall, in good faith, contest the validity of any such lien, Tenant shall furnish to Landlord a surety bond satisfactory to Landlord in an amount equal to not less than one and one half (1-1/2) times the amount of such contested lien claim indemnifying Landlord against liability arising out of such lien or claim. Such bond shall be sufficient in form and amount to free the Project from the effect of such lien. In addition, Landlord may require Tenant to pay Landlord's reasonable attorneys' fees and costs in participating in such action.

(d) Tenant agrees to pay all liens of contractors, subcontractors, mechanics, laborers, materialmen, and other items of like character, and agrees not to permit any mechanic's liens or other liens to be placed upon the Premises or the Project, and shall defend and indemnify Landlord against all expenses, costs and charges of whatever nature, including bond premiums for release of liens and attorneys' fees and costs reasonably incurred by Landlord as a result of the filing of any such liens, judgments, or encumbrances caused or suffered by Tenant. If any such lien is made or filed, then Tenant shall at its expense within twenty (20) days thereafter either discharge or contest the lien or claim. If Tenant contests the lien or claim, then Tenant shall (i) within such 20-day period, provide Landlord adequate security for the lien or claim by bonding in accordance with the Texas Property Code, (ii) contest the lien or claim in good faith by appropriate proceedings that operate to stay its enforcement, and (iii) pay promptly any final adverse judgment entered in any such proceeding. If Tenant does not comply with these requirements, Landlord may discharge the lien or claim, and the amount paid, as well as attorney's fees and other expenses incurred by Landlord, shall become additional rent payable by Tenant on demand. The expenses, costs and charges above referred to shall be considered as rent due and shall be included in any lien for rent.

(e) Tenant shall not have any authority to create any liens for labor or material in the Landlord's interest in the Premises, and all persons contracting with Tenant for the destruction or removal of any facilities or other improvements, or for the erection, installation, alteration or repair of any facilities or other improvements on or about the Premises, and all materialmen, contractors, mechanics and laborers, are hereby charged with notice that they must look to

to Tenant and to Tenant's property to secure the payment of any bill for work done or material furnished at the request or instruction of Tenant.

(f) Tenant shall give Landlord not less than ten (10) days' advance written notice prior to the commencement of any work in the Premises by Tenant, and Landlord shall have the right to post notices of non-responsibility in or on the Premises or the Project. Tenant shall at all times coordinate the completion of all improvements with Landlord so as not to unreasonably interfere with other tenants in the Building.

(g) All Alterations (whether or not such Alterations constitute trade fixtures of Tenant) which may be made to the Premises by Tenant shall be paid for by Tenant, at Tenant's sole expense, and shall be made and done in a good and workmanlike manner and with new materials satisfactory to Landlord, and such Alteration shall be the property of Landlord and remain upon and be surrendered with the Premises at the expiration of the Term, unless Landlord requires their removal pursuant to Section 7.3(a). Tenant's personal property and equipment, other than that which is affixed to the Premises so that it cannot be removed without material damage to the Premises or the Project, shall remain the property of Tenant and may be removed by Tenant subject to the provisions of Section 7.2(b).

**7.4 Failure of Tenant to Remove Property.** If this Lease is terminated due to the expiration of its Term or otherwise, and Tenant fails to remove its property as required by Section 7.2(b), then Tenant shall be conclusively presumed to have, at Landlord's election (i) conveyed such property to Landlord without compensation or (ii) abandoned such property, and Landlord may dispose of or store any part thereof in any manner at Tenant's sole cost, without waiving Landlord's right to claim from Tenant all expenses arising out of Tenant's failure to remove the property, and without liability to Tenant or any other person. Landlord shall have no duty to be a bailee of any such personal property. If Landlord elects abandonment, Tenant shall pay to Landlord, upon demand, any expenses incurred for removal, repair or disposition. The foregoing shall be in addition to any other rights or remedies available to Landlord under this Lease or applicable law.

## Section 8. Insurance.

### **8.1 Insurance-Tenant.**

(a) Upon the Effective Date, Tenant shall obtain and keep in force a commercial general liability policy of insurance with coverages acceptable to Landlord, in Landlord's sole discretion, which, by way of example and not limitation, protects Tenant and Landlord and Landlord's agents and managers (as additional insureds) against claims for bodily injury, personal injury and property damage based upon, involving or arising out of the ownership, use, occupancy or maintenance of the Premises and all areas appurtenant thereto. Such insurance shall be on an occurrence basis providing single limit coverage in an amount not less than \$2,000,000 per occurrence with an "Additional Insured Endorsement". The policy shall not contain any intra-insured exclusions as between insured persons or organizations, but shall include coverage for liability assumed under this Lease as an "insured contract" for the performance of Tenant's indemnity obligations under this Lease.

(b) Tenant shall further obtain and keep in force "all risk" extended coverage property insurance with coverages acceptable to Landlord, in Landlord's sole discretion. Said insurance shall be written on a one hundred percent (100%) replacement cost basis on Tenant's personal property, all tenant improvements installed at the Premises by Landlord or Tenant, Tenant's trade fixtures and other property. By way of example, and not limitation, such policies shall provide protection against any peril included within the classification "fire and extended coverage" (or "causes of loss-broad form"), as well as against vandalism and malicious mischief, theft, sprinkler leakage, earthquake damage and flood damage. If this Lease is terminated as the result of a casualty in accordance with Section 9, the proceeds of said insurance attributable to the replacement of all tenant improvements at the Premises shall be paid to Landlord. If insurance proceeds are available to repair the tenant improvements, at Landlord's option, all insurance proceeds Tenant is entitled to receive to repair the tenant improvements shall be paid by the insurance company directly to Landlord, Landlord shall select the contractor to repair and/or replace the tenant improvements, and Landlord shall cause the tenant improvements to be repaired and/or replaced to the extent insurance proceeds are available.

(c) Tenant shall further, at all times, maintain in effect workers' compensation insurance as required by applicable law and business interruption and extra expense insurance satisfactory to Landlord.

**8.2      *Insurance-Landlord.***

(a)      Landlord shall obtain and keep in force a policy of general liability insurance with coverage against such risks and in such amounts as Landlord deems advisable insuring Landlord against liability arising out of the ownership, operation and management of the Project.

(b)      Landlord shall also obtain and keep in force a policy or policies of insurance covering loss or damage to the Project in the amount of not less than one hundred percent (100%) of the full replacement cost thereof, as determined by Landlord from time to time. The terms and conditions of said policies and the perils and risks covered thereby shall be determined by Landlord, from time to time, in Landlord's sole discretion. At Landlord's option, Landlord shall obtain and keep in force, during the Term, a policy of rental interruption insurance, with loss payable to Landlord, which insurance shall, at Landlord's option, also cover all Operating Expenses. At Landlord's option, Landlord may obtain insurance coverages and/or bonds related to the operation of the parking areas. At Landlord's option, Landlord may obtain coverage for flood damages. In addition, Landlord shall have the right to obtain such additional insurance as is customarily carried by owners or operators of other comparable office buildings in the geographical area of the Project. Tenant will not be named as an additional insured in any insurance policies carried by Landlord and shall have no right to any proceeds therefrom. The policies purchased by Landlord shall contain such commercially deductibles as Landlord may determine. In addition to amounts payable by Tenant in accordance with Section 4.2, Tenant shall pay any increase in the property insurance premiums for the Project over what was payable immediately prior to the increase to the extent the increase is specified by Landlord's insurance carrier as being caused by the nature of Tenant's occupancy or any act or omission of Tenant.

**8.3      *Insurance Policies.*** Tenant shall deliver to Landlord copies of the certificates of insurance required under Section 8.1 upon the Effective Date of this Lease. Tenant's insurance policies shall not be cancelable or subject to reduction of coverage or other modification except after thirty (30) days prior written notice to Landlord. Tenant shall, no more than ten (10) days after the expiration of such policies, furnish Landlord with renewals thereof. Tenant's insurance policies shall be issued by insurance companies authorized to do business in the state in which the Project is located, and said companies shall maintain during the policy term a "General Policyholder's Rating" of at least A and a financial size category of at least "Class X" (or such other rating as may be required by any lender having a lien on the Project) as set forth in the most recent edition of "Best Insurance Reports." (excluding section 8.2.a). All insurance obtained by Tenant shall be primary to and not contributory with any similar insurance carried by Landlord, whose insurance shall be considered excess insurance only. Landlord, and at Landlord's option, the holder of any mortgage or deed of trust encumbering the Project and any person or entity managing the Project on behalf of Landlord, shall be named as an additional insured or loss payee on all insurance policies Tenant is obligated to obtain by Section 8.1 above.

**8.4      *Waiver of Subrogation.*** Landlord waives any and all rights of recovery against Tenant, Tenant's employees, agents and contractors for liability or damages if such liability or damage is covered by Landlord's insurance policies then in force or the insurance policies Landlord is required to obtain by Section 8.2 (whether or not the insurance Landlord is required to obtain by Section 8.2 is then in force and effect), whichever is broader. Landlord's waiver shall not relieve Tenant from liability under Section 21.1 below except to the extent Landlord's insurance company actually satisfies Tenant's obligations under Section 21.1 in accordance with the requirements of Section 21.1. Tenant waives any and all rights of recovery against Landlord, Landlord's employees, agents and contractors for liability or damages if such liability or damage is covered by Tenant's insurance policies then in force or the insurance policies Tenant is required to obtain by Section 8.1 (whether or not the insurance Tenant is required to obtain by Section 8.1 is then in force and effect), whichever is broader. Tenant's waiver shall not relieve Landlord from liability under Section 21.2 below except to the extent Tenant's insurance company actually satisfies Landlord's obligations under Section 21.2 in accordance with the requirements of Section 21.2. Landlord's and Tenant's waivers shall not be limited by the amount of insurance then carried by Landlord or Tenant or the deductibles applicable thereto. Landlord and Tenant shall each cause the insurance policies it obtains in accordance with this Section 8 to provide that the insurance company waives all right of recovery by subrogation against the other party in connection with any liability or damage covered by such insurance policies.

**8.5      *Coverage.*** Landlord makes no representation to Tenant that the limits or forms of coverage specified above or approved by Landlord are adequate to insure Tenant's property or Tenant's obligations under this Lease, and the limits of any insurance carried by Tenant shall not limit Tenant's obligations or liability under any indemnity provision included in this Lease or under any other provision of this Lease.

Section 9.      ***Damage or Destruction.***

**9.1      *Effect of Damage or Destruction.*** If all or part of the Project is damaged by fire, earthquake, flood, explosion, the elements, riot, the release or existence of Hazardous Substances (as defined below) or by any other cause whatsoever (hereinafter collectively referred to as "damages"), but the damages are not material (as defined in Section 9.2 below), Landlord shall repair the damages to the Project as soon as is reasonably possible, and this Lease shall remain in full force and effect. If all or part of the Project is destroyed or materially damaged (as defined in Section 9.2 below), Landlord shall have the right, in its sole and complete discretion, to repair or to rebuild the Project or to terminate this Lease. Landlord shall within sixty (60) days after the discovery of such material damage or destruction notify Tenant in writing of Landlord's intention to repair or to rebuild or to terminate this Lease. Tenant shall in no event be entitled to compensation or damages on account of annoyance or inconvenience in making any repairs, or on account of construction, or on account of Landlord's election to terminate this Lease. Notwithstanding the foregoing, if Landlord shall elect to rebuild or repair the Project after material damage or destruction, but in good faith determines that the Premises cannot be substantially repaired within one hundred eighty (180) days after the date of the discovery of the material damage or destruction, without payment of overtime or other premiums, and the damage to the Project will render the entire Premises unusable during said one hundred eighty (180) day period, Landlord shall notify Tenant thereof in writing at the time of Landlord's election to rebuild or repair, and Tenant shall thereafter have a period of fifteen (15) days within which Tenant may elect to terminate this Lease, upon thirty (30) days' advance written notice to Landlord. Tenant's termination right described in the preceding sentence shall not apply if the damage was caused by the negligent or intentional acts of Tenant or its employees, agents, contractors or invitees. Failure of Tenant to exercise said election within said fifteen (15) day period shall constitute Tenant's agreement to accept delivery of the Premises under this Lease whenever tendered by Landlord, provided Landlord thereafter pursues reconstruction or restoration diligently to completion, subject to delays caused by Force Majeure Events. Subject to Section 9.3 below, if Landlord or Tenant terminates this Lease in accordance with this Section 9.1, Tenant shall continue to pay all Base Rent, Tenant's Share of Excess Operating Expenses and other amounts due hereunder which arise prior to the date of termination. For purposes hereof, a "Force Majeure Event" shall mean fire, earthquake, weather delays or other acts of God, strikes, boycotts, war, riot, insurrection, embargoes, shortages of equipment, labor or materials, delays in issuance of governmental permits or approvals, or any other cause beyond the reasonable control of Landlord.

**9.2      *Definition of Material Damage.*** Damage to the Project shall be deemed material if, in Landlord's reasonable judgment, the uninsured cost of repairing the damage will exceed Fifty Thousand Dollars (\$50,000.00). If insurance proceeds are available to Landlord in an amount which is sufficient to pay the entire cost of repairing all of the damage to the Project, the damage shall be deemed material if the cost of repairing the damage exceeds One Million Dollars (\$1,000,000.00). Damage to the Project shall also be deemed material if (a) the Project cannot be rebuilt or repaired to substantially the same condition it was in prior to the damage due to laws or regulations in effect at the time the repairs will be made, (b) the holder of any mortgage or deed of trust encumbering the Project requires that insurance proceeds available to repair the damage in excess of Fifty Thousand Dollars (\$50,000.00) be applied to the repayment of the indebtedness secured by the mortgage or the deed of trust, or (c) the damage occurs, or substantial completion of the restoration thereof shall occur, during the last twelve (12) months of the Term.

**9.3      *Abatement of Rent.*** If Landlord elects to repair damage to the Project and all or part of the Premises will be unusable or inaccessible to Tenant in the ordinary conduct of its business until the damage is repaired, Tenant's Base Rent and Tenant's Share of Excess Operating Expenses shall be abated until the repairs are completed in proportion to the amount of the Premises which is unusable or inaccessible to Tenant in the ordinary conduct of its business; provided, however, if the damage was caused by the negligence or intentional acts of Tenant or its employees, agents, contractors or invitees, Tenant's Base Rent and Tenant's Share of Excess Operating Expenses shall only abate to the extent Landlord receives reimbursement for such amounts through insurance proceeds.

**9.4      *Tenant's Right to Insurance Proceeds.*** In the event damage to the Project or Premises results in the termination of this Lease pursuant to Section 9.1, Tenant shall be entitled to a portion of any insurance proceeds payable as a result of such damage in an amount equal to the unamortized amount of Tenant's Contribution (as defined in Exhibit "E") on the date of such damage, such amortization to be on a straight line basis over the Initial Term.

**9.5      *Tenant's Property.*** Subject to Section 8.4 above, Landlord shall not be liable, except for the negligent acts of Landlord, to Tenant or its employees, agents, contractors, invitees or customers for loss or damage to merchandise, improvements, fixtures, automobiles, furniture, equipment, computers, files or other property (hereinafter collectively "Tenant's property") located at the Project. Tenant shall repair or replace all of Tenant's property at Tenant's sole cost.

expense. Tenant acknowledges that it is Tenant's sole responsibility to obtain adequate insurance coverage to compensate Tenant for damage to Tenant's property.

9.6 ***Waiver.*** Landlord and Tenant hereby waive the provisions of any present or future statutes which relate to the termination of leases when leased property is damaged or destroyed and agree that such event shall be governed by the terms of this Lease.

#### Section 10. Real and Personal Property Taxes.

10.1 ***Payment of Taxes.*** All Real Property Taxes (as defined in Section 10.2 below) shall be included as an Operating Expense as provided in Section 4.2(b) hereof.

10.2 ***Definition of "Real Property Tax."*** As used herein, the term "Real Property Taxes" shall include any form of real estate tax or assessment, general, special, ordinary or extraordinary, improvement bond or bonds imposed on or levied against the Project or any portion thereof by any authority having the direct or indirect power to tax (including any city, county, state or federal government, or any school, agricultural, sanitary, fire, street, drainage or other improvement district thereof) as against any legal or equitable interest of Landlord in the Project or in any portion thereof, unless such tax is defined as an Operating Expense by Section 4.2(b). "Real Property Taxes" shall include all real estate taxes, personal property taxes, sewer rents, water rents, special or general assessments, transit taxes, ad valorem taxes, assessments by any property owners association or under any deed or other restrictive covenants and any tax levied on the rents hereunder or the interest of Landlord under this Lease. Real Property Taxes shall not include any net income, capital, stock, succession, transfer, franchise, gift, estate or inheritance tax, except to the extent that such tax shall be imposed in lieu of any portion of Real Property Taxes.

10.3 ***Personal Property Taxes.*** Tenant shall pay prior to delinquency all taxes assessed against and levied upon trade fixtures, furnishings, equipment and all other personal property of Tenant contained in the Premises or related to Tenant's use of the Premises. If any of Tenant's personal property shall be assessed with Landlord's real or personal property, Tenant shall pay to Landlord the taxes attributable to Tenant within ten (10) days after receipt of a written statement from Landlord setting forth the taxes applicable to Tenant's property.

10.4 ***Reassessments.*** From time to time Landlord may challenge the assessed value of the Project as determined by applicable taxing authorities and/or Landlord may attempt to cause the Real Property Taxes to be reduced on other grounds. If Landlord is successful in causing the Real Property Taxes to be reduced or in obtaining a refund, rebate, credit or similar benefit (hereinafter collectively referred to as a "reduction"), Landlord shall, to the extent practicable, credit the reduction(s) to Real Property Taxes for the calendar year to which a reduction applies and to recalculate the Real Property Taxes owed by Tenant for years after the year in which the reduction applies based on the reduced Real Property Taxes. All costs incurred by Landlord in seeking to obtain Real Property Tax reductions, whether Landlord is successful or not, shall be considered an Operating Expense.

#### Section 11. Utilities.

11.1 ***Services Provided by Landlord.*** Subject to all governmental rules, regulations and guidelines applicable thereto, Landlord shall use its commercially reasonable efforts to provide HVAC to the Premises for normal office use during the times described in Section 11.4, reasonable amounts of electricity for normal office lighting and fractional horsepower office machines, water in the Premises or in the Common Area for reasonable and normal drinking and lavatory use, replacement light bulbs and/or fluorescent tubes and ballasts for standard overhead fixtures, and building standard janitorial services.

11.2 ***Intrabuilding Network Cabling.*** In addition to the items described in Section 11.1 above, Landlord shall also provide Tenant with access to a reasonable amount of Intrabuilding Network Cabling ("INC"). For purposes of this Section 11.2, a reasonable amount of INC shall not exceed two (2) cable pairs per one thousand (1,000) rentable square feet of space in the Premises. If Tenant requires additional INC capacity, the cost of providing, maintaining, repairing, and replacing such capacity shall be borne solely by Tenant. Additional INC capacity may only be installed, maintained, repaired and replaced by a contractor approved by Landlord, in Landlord's sole discretion. The Building's minimum point of entry ("MPOE") for telephone service, the INC risers and the telephone terminal rooms located on each floor of the Building may only be accessed with Landlord's prior consent and by contractors approved by Landlord, in Landlord's sole discretion. Tenant shall be responsible for any loss, cost, damage, liability and expense (including attorneys' fees) arising out of or

related to the installation, maintenance, repair and replacement of additional INC capacity. At the end of the Term, Tenant shall be responsible for the costs of removing such additional INC capacity, such removal to be done by a contractor approved by Landlord, in Landlord's sole discretion.

11.3 *Services Exclusive to Tenant.* Tenant shall pay for all water, gas, heat, electricity, telephone and other utilities and services supplied and/or metered exclusively to the Premises or to Tenant, together with any taxes thereon. If any such services are not separately metered to the Premises, Tenant shall pay, at Landlord's option, either Tenant's Share or a reasonable proportion to be determined by Landlord of all charges jointly metered with other premises in the Project.

11.4 *Hours of Service.* Tenant shall have access to the Premises twenty-four (24) hours a day, seven (7) days a week, subject to any limitations set forth in Exhibit "C" attached hereto or which may be imposed by Landlord in the case of an emergency. HVAC service and utilities shall be provided Monday through Friday from 7:00 a.m. to 6:00 p.m. and Saturdays from 8:00 a.m. to 1:00 p.m. Janitorial services shall be provided Monday through Friday. HVAC service and janitorial services shall not be provided at other times or on nationally recognized holidays. Tenant acknowledges that there will be no air circulation or temperature control within the Premises when the HVAC is not operating and, consequently, during such times the Premises may not be comfortable for human occupation or suitable for the operation of computers and other heat sensitive equipment. Nationally recognized holidays shall include, but shall not necessarily be limited to, New Year's Day, Martin Luther King Jr. Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day. Landlord shall use commercially reasonable efforts to provide HVAC services to Tenant at times other than those set forth above subject to (a) the payment by Tenant of Landlord's standard charge, as determined by Landlord from time to time, in Landlord's sole discretion (presently \$35.00/air handler/hour), for after-hours HVAC services and (b) Tenant providing to Landlord at least one (1) business day's advance written notice of Tenant's need for after-hours HVAC. Tenant shall pay all after-hours HVAC charges to Landlord within fifteen (15) days after Landlord bills Tenant for said charges.

11.5 *Excess Usage by Tenant.* Notwithstanding the use set forth in Section 1.6, Tenant shall not use Building utilities or services in excess of those used by the average office building tenant using its premises for ordinary office use. Tenant shall not install at the Premises office machines, lighting fixtures or other equipment which will generate above average heat, noise or vibration at the Premises or which will adversely affect the temperature maintained by the HVAC system. If Tenant does use Building utilities or services in excess of those used by the average office building tenant (as determined in the reasonable discretion of Landlord's engineer), Landlord shall have the right, in addition to any other rights or remedies it may have under this Lease, to (a) at Tenant's expense, install separate metering devices at the Premises, and to charge Tenant for its usage, (b) require Tenant to pay to Landlord all costs, expenses and damages incurred by Landlord as a result of such usage, and (c) require Tenant to stop using excess utilities or services.

11.6 *Interruptions.*

(a) Tenant agrees that Landlord shall not be liable to Tenant for its failure to furnish gas, electricity, telephone service, water, HVAC or any other utility services or building services when such failure is occasioned, in whole or in part, by repairs, replacements, or improvements, by any strike, lockout or other labor trouble, by inability to secure electricity, gas, water, telephone service or other utility at the Project, by any accident, casualty or event, by act, negligence or default of Tenant or any other person or entity, or by any other cause, and such failures shall never be deemed to constitute an eviction or disturbance of Tenant's use and possession of the Premises or relieve Tenant from the obligation of paying rent or performing any of its obligations under this Lease. Furthermore, Landlord shall not be liable for loss of property or for injury to, or interference with, Tenant's business, including, without limitation, loss of profits, however occurring, through or in connection with or incidental to a failure to furnish any such services or utilities. Landlord may comply with voluntary controls or guidelines promulgated by any governmental entity relating to the use or conservation of energy, water, gas, light or electricity or the reduction of automobile or other emissions without creating any liability of Landlord to Tenant under this Lease.

(b) *Restoration of Services.* Landlord shall use reasonable efforts to restore any service that becomes unavailable; however, such unavailability shall not (i) render Landlord liable for any damages caused thereby, (ii) be a constructive eviction of Tenant, (iii) constitute a breach of any express or implied warranty, or, except as provided in the next sentence, or (iv) entitle Tenant to any abatement of Tenant's obligations hereunder. Notwithstanding the foregoing or anything else contained herein to the contrary, if (A) there is an interruption of essential services caused by acts or omissions of Landlord or its employees or contractors, (B) such interruption continues for more than three (3) consecutive business days after written notice to Landlord, and (C) such interruption causes the use of the Premises for il

purpose to be impossible or impractical, then Tenant shall be entitled to an abatement of Base Rent and Operating Expenses during the continuation of such interruption. In the event of any conflict between the preceding sentence and Section 9, Section 9 shall control.

Section 12. Assignment and Subletting.

12.1 ***Landlord's Consent Required.*** Tenant shall not voluntarily or by operation of law advertise that any portion of the Premises is available for lease, or assign, transfer, hypothecate, mortgage, sublet, or otherwise transfer or encumber all or any part of Tenant's interest in this Lease or in the Premises (hereinafter collectively a "Transfer"), without Landlord's prior written consent, such consent not to be unreasonably withheld. Any attempted Transfer without such consent shall be void and shall constitute a material default and breach of this Lease. Tenant's written request for Landlord's consent shall include the following information: (a) financial statements for the proposed assignee or subtenant for the past three (3) years prepared in accordance with generally accepted accounting principles, (b) federal tax returns for the proposed assignee or subtenant for the past three (3) years, (c) a TRW credit report or similar report on the proposed assignee or subtenant, (d) a detailed description of the business the assignee or subtenant intends to operate at the Premises, (e) the proposed effective date of the assignment or sublease, (f) a copy of the proposed sublease or assignment agreement which includes all of the terms and conditions of the proposed assignment or sublease, (g) a detailed description of any ownership or commercial relationship between Tenant and the proposed assignee or subtenant and (h) a detailed description of any Alterations the proposed assignee or subtenant desires to make to the Premises. Landlord shall either grant or withhold its consent to any requested Transfer within fifteen (15) days after Landlord's receipt of all of the required information to be provided by Tenant hereunder. If Landlord shall fail to so respond to such request for consent within such 15-day period, Landlord shall be deemed to have intentionally withheld its consent.

12.2 ***Permitted Transfer.*** Notwithstanding the foregoing or anything else contained herein to the contrary, Tenant may assign this Lease or sublease all or any portion of the Premises without Landlord's consent to: (i) HCA Healthcare, Inc. ("HCA") or any person, firm, corporation or other entity who is the purchaser of all or substantially all of the outstanding shares of capital stock of HCA, the purchaser of substantially all of the assets and business of HCA or successor to substantially all of the business and assets of HCA by corporate merger or consolidation with or into HCA (collectively, the "HCA Successor"), (ii) any subsidiary or other entity owned at least 51%, directly or indirectly, by Tenant, HCA or any HCA Successor, (iii) any person, firm, corporation or other entity who is the purchaser of all or substantially all of the assets of Tenant or is the successor to substantially all the assets and business of Tenant by virtue of a corporate merger or consolidation of, with or into Tenant, (iv) any general partner of Tenant, or (v) any person, firm, corporation or other entity who is the purchaser or shall otherwise become the owner of all or substantially all of the assets of Woman's Hospital of Texas located in Houston, Texas (each, a "Permitted Transfer").

12.3 ***Standard For Approval.*** Landlord shall not unreasonably withhold its consent to a Transfer provided that Tenant has complied with each and every requirement, term and condition of this Section 12. Tenant acknowledges and agrees that each requirement, term and condition in this Section 12 is a reasonable requirement, term or condition. It shall be deemed reasonable for Landlord to withhold its consent to a Transfer if any requirement, term or condition of this Section 12 is not complied with or: (a) the Transfer would cause Landlord to be in violation of its obligations under another lease or agreement to which Landlord is a party; (b) in Landlord's reasonable judgment, a proposed assignee or subtenant has a smaller net worth than Tenant had on the date this Lease was entered into with Tenant or is less able financially to pay the rents due under this Lease as and when they are due and payable; (c) a proposed assignee's or subtenant's business will impose a burden on the Project's parking facilities, elevators, Common Areas or utilities that is greater than the burden imposed by Tenant, in Landlord's reasonable judgment; (d) the terms of a proposed assignment or subletting will allow the proposed assignee or subtenant to exercise a right of renewal, right of expansion, right of first offer, right of first refusal or similar right held by Tenant; (e) a proposed assignee or subtenant refuses to enter into a written assignment agreement or sublease, reasonably satisfactory to Landlord, which provides that it will abide by and assume all of the terms and conditions of this Lease for the term of any assignment or sublease and containing such other terms and conditions as Landlord reasonably deems necessary; (f) the use of the Premises by the proposed assignee or subtenant will not be identical to the use permitted by this Lease; (g) any guarantor of this Lease refuses to consent to the Transfer or to execute a written agreement reaffirming the guaranty; (h) Tenant is in default as defined in Section 13.1 at the time of the request; (i) if requested by Landlord, the assignee or subtenant refuses to sign a non-disturbance and attornment agreement in favor of Landlord's lender; (j) Landlord has sued or been sued by the proposed assignee or subtenant or has otherwise been involved in a legal dispute with the proposed assignee or subtenant; (k) the assignee or subtenant is involved in a business which is not in keeping with the then current standards of the Project; (l) the proposed assignee or subtenant is an existing tenant of the Project or is a person or entity then negotiating with Landlord for the lease of space in the Project; (m) the assignee or

sublease will result in there being more than one subtenant of the Premises (e.g., the assignee or subtenant intends to use the Premises as an executive suite); (n) the assignee or subtenant is a governmental or quasi-governmental entity or an agency, department or instrumentality of a governmental or quasi-governmental agency; or (o) the assignment or sublease is for less than the entire Premises or for less than the remaining Term. The foregoing shall not exclude any other reasonable basis for Landlord to withhold its consent to any requested Transfer. In no event shall Landlord be liable for damages to Tenant or to any proposed transferee, and Tenant shall not be entitled to terminate this Lease, if it is finally adjudicated that Landlord's consent has been unreasonably withheld and such unreasonable withholding of consent constitutes a breach of this Lease or other duty to Tenant, the proposed transferee or any other person on the part of Landlord. In such event, Tenant's sole remedy shall be to have the proposed Transfer declared valid as if Landlord's consent had been given.

**12.4 Additional Terms and Conditions.** The following terms and conditions shall be applicable to any Transfer:

(a) Regardless of Landlord's consent, no Transfer shall release Tenant from Tenant's obligations hereunder or alter the primary liability of Tenant to pay the rent and other sums due Landlord hereunder and to perform all other obligations to be performed by Tenant hereunder or release any guarantor from its obligations under its guaranty.

(b) Landlord may accept rent from any person other than Tenant pending approval or disapproval of an assignment or subletting.

(c) Neither a delay in the approval or disapproval of a Transfer, nor the acceptance of rent, shall constitute a waiver or estoppel of Landlord's right to exercise its rights and remedies for the breach of any of the terms or conditions of this Section 12.

(d) The consent by Landlord to any Transfer shall not constitute a consent to any subsequent Transfer by Tenant or to any subsequent or successive Transfer by an assignee or subtenant. However, Landlord may consent to subsequent Transfers or any amendments or modifications thereto without notifying Tenant or anyone else liable on the Lease and without obtaining their consent, and such action shall not relieve such persons from liability under this Lease.

(e) In the event of any default under this Lease, Landlord may proceed directly against Tenant, any guarantors or anyone else responsible for the performance of this Lease, including any subtenant or assignee, without first exhausting Landlord's remedies against any other person or entity responsible therefor to Landlord, or any security held by Landlord.

(f) Landlord's written consent to any Transfer by Tenant shall not constitute an acknowledgment that no default then exists under this Lease nor shall such consent be deemed a waiver of any then existing default.

(g) The discovery of the fact that any financial statement relied upon by Landlord in giving its consent to an assignment or subletting was materially false shall, at Landlord's election, render Landlord's consent null and void.

(h) Landlord shall not be liable under this Lease or under any sublease to any subtenant.

(i) Except in connection with a Permitted Transfer, no assignment or sublease may be modified or amended without Landlord's prior written consent.

(j) Intentionally Omitted.

(k) Any assignee of, or subtenant under, this Lease shall, by reason of accepting such assignment or entering into such sublease, be deemed, for the benefit of Landlord, to have assumed and agreed to conform and comply with each and every term, covenant, condition and obligation herein to be observed or performed by Tenant during the term of said assignment or sublease, other than such obligations as are contrary or inconsistent with provisions of an assignment or sublease to which Landlord has specifically consented in writing.

**12.5 Additional Terms and Conditions Applicable to Subletting.** The following terms and conditions shall apply to any subletting by Tenant of all or any part of the Premises and shall be deemed included in all subleases under this

(a) Tenant hereby absolutely and unconditionally assigns and transfers to Landlord all of Tenant's interest in all rentals and income arising from any sublease entered into by Tenant, and Landlord may collect such rent and income and apply same toward Tenant's obligations under this Lease; provided, however, that until a default shall occur in the performance of Tenant's obligations under this Lease, Tenant may receive, collect and enjoy the rents accruing under such sublease. Landlord shall not, by reason of this or any other assignment of such rents to Landlord nor by reason of the collection of the rents from a subtenant, be deemed to have assumed or recognized any sublease or to be liable to the subtenant for any failure of Tenant to perform and comply with any of Tenant's obligations to such subtenant under such sublease, including, but not limited to, Tenant's obligation to return any security deposit. Tenant hereby irrevocably authorizes and directs any such subtenant, upon receipt of a written notice from Landlord stating that a default exists in the performance of Tenant's obligations under this Lease, to pay to Landlord the rents due as they become due under the sublease. Tenant agrees that such subtenant shall have the right to rely upon any such statement and request from Landlord, and that such subtenant shall pay such rents to Landlord without any obligation or right to inquire as to whether such default exists and notwithstanding any notice from or claim from Tenant to the contrary.

(b) In the event Tenant shall default in the performance of its obligations under this Lease, Landlord at its option and without any obligation to do so, may require any subtenant to attorn to Landlord.

**12.6 Transfer Premium from Assignment or Subletting.** Except in connection with a Permitted Transfer, Landlord shall be entitled to receive from Tenant (as and when received by Tenant), as an item of additional rent, fifty percent (50%) of all amounts received by Tenant from such assignee or subtenant in excess of the amounts payable by Tenant to Landlord hereunder, less Tenant's reasonable out-of-pocket costs incurred in connection therewith (the "Transfer Premium"). "Transfer Premium" shall mean all Base Rent, additional rent or other consideration of any type whatsoever payable by the assignee or subtenant in excess of the Base Rent and additional rent payable by Tenant under this Lease, net of any reasonable brokerage commissions and legal fees actually paid by Tenant in order to assign the Lease or to sublet a portion of the Premises. If less than all of the Premises is transferred, the Base Rent and the additional rent shall be determined on a per rentable square foot basis. "Transfer Premium" shall also include, but not be limited to, key money and bonus money paid by the assignee or subtenant to Tenant in connection with such Transfer, and any payment in excess of fair market value for services rendered by Tenant to the assignee or subtenant or for assets, fixtures, inventory, equipment, or furniture transferred by Tenant to the assignee or subtenant in connection with such Transfer.

**12.7 Intentionally Omitted.**

**12.8 Landlord's Expenses.** Except in connection with a Permitted Transfer, in the event Tenant shall assign this Lease or sublet the Premises or request the consent of Landlord to any Transfer, then Tenant shall pay, as additional rent hereunder, Landlord's reasonable costs and expenses incurred in connection therewith, including, but not limited to, attorneys', architects', accountants', engineers' or other consultants' fees, not to exceed \$1,500 in the aggregate. Such amounts shall be payable promptly after written demand therefor from Landlord.

**Section 13. Default; Remedies.**

**13.1 Default by Tenant.** Landlord and Tenant hereby agree that the occurrence of any one or more of the following events is a default by Tenant under this Lease and that said default shall give Landlord the rights described in Section 13.2. Landlord or Landlord's authorized agent shall have the right to execute and to deliver any notice of default, notice to pay rent or quit or any other notice Landlord gives Tenant.

(a) Tenant's failure to make any payment of Base Rent, Tenant's Share of Excess Operating Expenses, Tenant's Share of Real Property Taxes, parking charges, charges for after-hours HVAC, signage charges, late charges, or any other payment required to be made by Tenant hereunder, as and when due under the Lease.

(b) The abandonment of the Premises by Tenant for a period exceeding thirty (30) or more consecutive days; provided, however, that Tenant's mere absence from the Premises or Tenant's cessation of business at the Premises shall not constitute an abandonment as long as Tenant continues performing its obligations hereunder.

(c) The failure of Tenant to comply with any of its obligations under Sections 6.1, 6.2, 7.2, 7.3, 8.12, 18, 19, 21, 23, 26, 34, 35 and 56 where Tenant fails to comply with its obligations or fails to cure any earlier breach of such obligation within ten (10) days following written notice from Landlord to Tenant; provided, however, that if the nature of Tenant's non-performance is such that more than ten (10) days are reasonably required for its cure, then Tenant shall not be

deemed to be in default if Tenant commences such cure within said ten (10) day period and thereafter diligently pursues such cure to completion. In the event Landlord serves Tenant with a notice to quit or any other notice pursuant to applicable unlawful detainer statutes, said notice shall also constitute the notice required by this Section 13.1(c).

(d) The failure by Tenant to observe or perform any of the covenants, conditions or provisions of this Lease to be observed or performed by Tenant (other than those referenced in Sections 13.1(a), (b) and (c), above), where such failure shall continue for a period of twenty (20) days after written notice thereof from Landlord to Tenant; provided, however, that if the nature of Tenant's non-performance is such that more than twenty (20) days are reasonably required for its cure, then Tenant shall not be deemed to be in default if Tenant commences such cure within said twenty (20) day period and thereafter diligently pursues such cure to completion. In the event that Landlord serves Tenant with a notice to quit or any other notice pursuant to applicable unlawful detainer statutes, said notice shall also constitute the notice required by this Section 13.1(d).

(e) (i) The making by Tenant or any guarantor of Tenant's obligations hereunder of any general arrangement or general assignment for the benefit of creditors; (ii) Tenant or any guarantor becoming a "debtor" as defined in 11 U.S.C. "101 or any successor statute thereto (unless, in the case of a petition filed against Tenant or guarantor, the same is dismissed within sixty (60) days); (iii) the appointment of a trustee or receiver to take possession of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease, where possession is not restored to Tenant within thirty (30) days; (iv) the attachment, execution or other judicial seizure of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease, where such seizure is not discharged within thirty (30) days; or (v) the insolvency of Tenant. In the event that any provision of this Section 13.1(e) is unenforceable under applicable law, such provision shall be of no force or effect.

(f) The discovery by Landlord that any financial statement, representation or warranty given to Landlord by Tenant, or by any guarantor of Tenant's obligations hereunder, was materially false at the time given. Tenant acknowledges that Landlord has entered into this Lease in material reliance on such information.

(g) If Tenant is a corporation or a partnership, the dissolution or liquidation of Tenant.

(h) If Tenant's obligations under this Lease are guaranteed: (i) the death of a guarantor, (ii) the termination of a guarantor's liability with respect to this Lease other than in accordance with the terms of such guaranty, (iii) a guarantor's becoming insolvent or the subject of a bankruptcy filing, (iv) a guarantor's refusal to honor the guaranty, or (v) a guarantor's breach of its guaranty obligation on an anticipatory breach basis.

(i) Except as provided in this section, if an event of default is curable and no more than two written notices have been previously given by Landlord of the same or any other event of default within the preceding twelve months, Tenant shall have five (5) days following Landlord's giving of written notice of default within which to cure a monetary default before Landlord may exercise its rights under the lease, and (ii) twenty (20) days following Landlord's giving of written notice of default within which to cure a nonmonetary default, before Landlord may exercise its rights under the Lease. A monetary default shall be a default that occurs because of (a) failure to pay any payment of rent or any other amount as and when due under the terms of this Lease, or (b) failure to maintain any required insurance on lease property in continuous full force and effect. Landlord's notice of default shall be given in writing and shall be deemed given when (a) mailed by first class or certified mail to Tenant at the address Landlord has for Tenant in Landlord's records, or (b) when actually received by Tenant, whichever first occurs.

### 13.2 Remedies.

(a) Upon the occurrence of any of the defaults described in Section 13.1 above, Landlord may, at any time thereafter, subject to the notice and right to cure in Section 13.1, without limiting the exercise of any right or remedy which Landlord may have by reason of such default, pursue any one or more of the following remedies:

(i) Terminate this Lease by giving Tenant written notice thereof, in which event Tenant shall immediately vacate the Premises and deliver possession to Landlord, and Landlord may repossess the Premises by any legal means necessary and may, at Tenant's sole cost, remove any of Tenant's signs and any of its other property, without relinquishing its right to receive rent or any other right against Tenant. If Landlord shall elect to terminate this Lease, Tenant shall pay to Landlord the sum of (i) all rent accrued hereunder through the date of termination, (ii) all amounts due under Section 13.2(d), and, as liquidated damages and not as a penalty, (iii) an amount equal to the positive difference, if any,

between (A) the total rent that Tenant would have been required to pay for the remainder of the Term discounted to present value at a per annum rate equal to the lesser of (1) a floating rate equal to five percent (5%) above the Prime Rate reported in the "Money Rates" column or section of the most recent issue of *The Wall Street Journal*, automatically adjusting with each change in the Prime Rate, and (2) the maximum non-usurious rate of interest permitted by the applicable laws of the State of Texas, as determined by reference to the indicated (weekly) rate ceiling (as defined and described in Texas Finance Code, Chapter 303, as such chapter now exists or as may be hereafter amended or succeeded) at the applicable time in effect, minus (B) the then present fair rental value of the Premises for such period, similarly discounted.

(ii) Terminate Tenant's right to possession of the Premises, without terminating this Lease, by giving written notice thereof to Tenant, in which event Tenant shall immediately vacate the Premises and deliver possession to Landlord, and Landlord may repossess the Premises by any legal means necessary and may, at Tenant's sole cost, remove any of Tenant's signs and any of its other property, without relinquishing its right to receive rent or any other right against Tenant. If Landlord shall elect to terminate Tenant's right of possession, Tenant shall pay to Landlord (i) all rent accrued hereunder to the date of termination of possession, (ii) all amounts due from time to time under Section 13.2(d), and (iii) all rent required hereunder to be paid by Tenant during the remainder of the Term, diminished by any net sums thereafter received by Landlord through reletting the Premises during such period. Subject to the provisions of Section 13.2(f) below, Landlord shall use objectively reasonable efforts to mitigate its damages by reletting the Premises on such terms and conditions as Landlord in its sole discretion may determine (including a term different from the Term, rental concessions, and alterations to, and improvement of, the Premises). Landlord shall not be liable for, nor shall Tenant's obligations hereunder be diminished because of, Landlord's failure to relet the Premises or to collect rent due for such reletting. Tenant shall not be entitled to the excess of any consideration obtained by reletting over the rent due hereunder. Reentry by Landlord in the Premises shall not affect Tenant's obligations hereunder for the unexpired Term; rather, Landlord may, from time to time, bring action against Tenant to collect amounts due by Tenant, without the necessity of Landlord's waiting until the expiration of the Term. Unless Landlord delivers written notice to Tenant expressly stating that it has elected to terminate this Lease, all actions taken by Landlord to exclude or dispossess Tenant of the Premises shall be deemed to be taken under this Section 13.2(a)(ii). If Landlord elects to proceed under this Section 13.2(a)(ii), it may at any time elect to terminate this Lease under Section 13.2(a)(i).

(iii) Re-enter the Premises, change locks and alter security devices at the Premises to deprive Tenant of access thereto, and Landlord shall not be required to provide a new key or right of access to Tenant. Notwithstanding the foregoing or anything else contained herein to the contrary, Landlord will make any patient records available for collection by Tenant regardless of whether or not Landlord has previously locked Tenant out of the Premises, terminated this Lease or terminated Tenant's right to possession of the Premises.

(iv) Collect sublease rents (or appoint a receiver to collect such rent) and otherwise perform Tenant's obligations at the Premises, it being agreed, however, that the appointment of a receiver for Tenant shall not constitute an election by Landlord to terminate this Lease.

(v) Enter upon the Premises and do whatever Tenant is obligated to do under the terms of this Lease (and Tenant shall reimburse Landlord on demand for any expenses which Landlord may incur in effecting compliance with Tenant's obligations under this Lease), and Landlord shall not be liable for any damages resulting to the Tenant from such action, whether caused by the negligence of Landlord or otherwise.

(b) The expiration or termination of this Lease and/or the termination of Tenant's right to possession of the Premises shall not relieve Tenant of liability under any indemnity provisions of this Lease as to matters occurring or accruing following the Effective Date or by reason of Tenant's occupancy of the Premises.

(c) Landlord's re-entry of the Premises under the terms of Section 13.2(a) shall not be deemed to constitute Landlord's election to accept a surrender of the Premises or to otherwise relieve Tenant from liability for its breach of this Lease. No surrender of the Premises shall be effective against Landlord unless Landlord has entered into a written agreement with Tenant in which Landlord expressly agrees to (i) accept a surrender of the Premises and (ii) relieve Tenant of liability under the Lease. The delivery by Tenant to Landlord of possession of the Premises shall not constitute the termination of the Lease or the surrender of the Premises.

(d) In the event of the occurrence of any of the defaults described in Section 13.1 above, Tenant shall be liable for the payment to Landlord of all costs incurred by Landlord (including court costs and reasonable attorneys' fees and expenses) in (i) obtaining possession of the Premises, (ii) removing and storing Tenant's or any other occupant's

property, (iii) repairing, restoring, altering, remodeling or otherwise putting the Premises into condition acceptable to a new tenant, (iv) if Tenant is dispossessed of the Premises and this Lease is not terminated, reletting all or any part of the Premises (including brokerage commissions, cost of tenant finish work, and other costs incidental to such reletting), (v) performing Tenant's obligations which Tenant failed to perform, and (vi) enforcing, or advising Landlord of, its rights, remedies, and recourses arising out of such default.

(e) All of the foregoing rights, remedies, powers and elections of Landlord reserved herein are cumulative, and pursuit of any of the foregoing remedies shall not preclude other remedies available under this Lease or provided by law, nor shall pursuit of any remedy herein provided constitute a forfeiture or waiver of any rent due to Landlord hereunder or of any damages accruing to Landlord by reason of the violation of any of the terms, provisions and covenants herein contained. Forbearance by Landlord to enforce one or more of the remedies herein provided upon an event of default, or delay by Landlord in enforcing one or more of such remedies upon an event of default, shall not be deemed or construed to constitute a waiver of such default. Landlord's acceptance of payment by Tenant shall not constitute a waiver of any breach by Tenant, and if the acceptance occurs after Landlord's notice to Tenant, or termination of the Lease or of Tenant's right to possession, the acceptance shall not affect such notice or termination. Acceptance of payment by Landlord after commencement of a legal proceeding or final judgment shall not affect such proceeding or judgment. All monies expended by Landlord for which Tenant is liable under this Lease, and all amounts and charges due to Landlord under this Lease shall be deemed to constitute rents and all rents shall be paid by Tenant to Landlord without any setoff or counterclaim whatsoever and all past due rents shall bear interest at the maximum legal rate per annum and shall be included in any lien for rent.

(f) In connection with the Landlord's reletting of the Premises or any portion thereof, Tenant hereby stipulates and agrees that Landlord has no obligation to: (i) relet the Premises prior to leasing any other space within the Building; (ii) relet the Premises (A) at a rental rate or otherwise on terms below market, as then determined by Landlord in its sole discretion; (B) to any entity not satisfying Landlord's then standard financial credit risk criteria; or (C) for a use (1) not consistent with Tenant's use of the Premises immediately before Tenant's default, (2) which would violate then applicable law or any restrictive covenant or other lease affecting the Building, (3) which would impose a greater burden upon the Building's parking, HVAC or other facilities, and/or (4) which would involve any use of Hazardous Materials; (iii) divide the Premises, install new demising walls or otherwise reconfigure the Premises to make same more marketable; (iv) pay any leasing or other commissions arising from such reletting, unless Tenant unconditionally delivers Landlord, in good and sufficient funds, the full amount thereof in advance; (v) pay, and/or grant any allowance for, tenant finish or other costs associated with any new lease, even though same may be amortized over the applicable lease term, unless Tenant unconditionally delivers Landlord, in good and sufficient funds, the full amount thereof in advance; and/or (vi) relet the Premises, if to do so, Landlord would be required to alter other portions of the Building, make ADA-type modifications or otherwise install or replace any sprinkler, security, safety, HVAC or other Building operating systems. To the extent that Landlord is required by applicable law to mitigate damages, Tenant must plead and prove that Landlord failed to so mitigate in accordance with Section 13.2(a)(ii), and that such failure resulted in an avoidable and quantifiable detriment to Tenant. Tenant further acknowledges that if Tenant raises Landlord's mitigation as an affirmative defense to a claim made by Landlord prior to any actual re-entry of the Premises by Landlord then, in such event, Tenant will be deemed to have automatically waived, and released and discharged Landlord from and against, any and all other claims and defenses to the payment of rent.

**13.3 Default by Landlord.** Landlord shall not be in default under this Lease unless Landlord fails to perform obligations required of Landlord within thirty (30) days after written notice by Tenant to Landlord, specifying wherein Landlord has failed to perform such obligation; provided, however, that if the nature of Landlord's obligation is such that more than thirty (30) days are required for its cure, then Landlord shall not be in default if Landlord commences performance within such thirty (30) day period and thereafter diligently pursues the same to completion. In no event shall Tenant have the right to terminate this Lease as a result of Landlord's default, and Tenant's remedies shall be limited to damages and/or an injunction. Tenant hereby waives its right to recover consequential damages (including, but not limited to, lost profits) or punitive damages arising out of a Landlord default. This Lease and the obligations of Tenant hereunder shall not be affected or impaired because Landlord is unable to fulfill any of its obligations hereunder or is delayed in doing so, if such inability or delay is caused by reason of a Force Majeure Event, and the time for Landlord's performance shall be extended for the period of any such delay.

**13.4 Late Charges.** Tenant hereby acknowledges that late payment by Tenant to Landlord of Base Rent, Tenant's Share of Excess Operating Expenses, parking charges, after-hours HVAC charges, and/or other [redacted] will cause Landlord to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges and late charges which [redacted]

imposed on Landlord by the terms of any mortgage or trust deed encumbering the Project. Accordingly, if any installment of Base Rent, Tenant's Share of Excess Operating Expenses, parking charges, after-hours HVAC charges or any other sum due from Tenant shall not be received by Landlord when such amount shall be due, then, without any requirement for notice or demand to Tenant, Tenant shall immediately pay to Landlord a late charge equal to five percent (5%) of such overdue amount. The parties hereby agree that such late charge represents a fair and reasonable estimate of the costs Landlord will incur by reason of late payment by Tenant. Acceptance of such late charge by Landlord shall in no event constitute a waiver of Tenant's default with respect to such overdue amount, nor prevent Landlord from exercising any of the other rights and remedies granted hereunder including the assessment of interest under Section 13.5. Landlord shall grant Tenant one grace late payment per twelve (12) months with five (5) business days prior written notice.

**13.5      *Interest on Past-due Obligations.*** Except as expressly herein provided, any amount due to Landlord that is not paid within five (5) business days after its due date shall bear interest from the due date therefor until the date payment thereof is received by Landlord at the lesser of (i) the per annum rate of five (5) percentage points over the then current Prime Rate or (ii) the maximum rate permitted by applicable law. Payment of such interest shall not excuse or cure any default by Tenant under this Lease; provided, however, that interest shall not be payable on late charges incurred by Tenant nor on any amounts upon which late charges are paid by Tenant.

**13.6      *Intentionally Omitted.***

**Section 14.**      *Intentionally Omitted.*

**Section 15.**      ***Condemnation.*** If any portion of the Premises or the Project are taken under the power of eminent domain, or sold under the threat of the exercise of said power (all of which are herein called "condemnation"), this Lease shall terminate as to the part so taken as of the date the condemning authority takes title or possession, whichever first occurs; provided that if so much of the Premises or Project are taken by such condemnation as would substantially and adversely affect the operation of Tenant's business conducted from the Premises, Tenant shall have the option, to be exercised only in writing within thirty (30) days after Landlord shall have given Tenant written notice of such taking (or in the absence of such notice, within thirty (30) days after the condemning authority shall have taken possession), to terminate this Lease as of the date the condemning authority takes such possession. If a taking lasts is a temporary taking, Tenant's rent shall be abated during said period but Tenant shall not have the right to terminate this Lease. If Tenant does not terminate this Lease in accordance with the foregoing, this Lease shall remain in full force and effect as to the portion of the Premises remaining, except that the rent and Tenant's Share of Excess Operating Expenses and Real Property Taxes shall be reduced in the proportion that the usable floor area of the Premises taken bears to the total usable floor area of the Premises. Common Areas taken shall be excluded from the Common Areas usable by Tenant and no reduction of rent shall occur with respect thereto or by reason thereof. Landlord shall have the option in its sole discretion to terminate this Lease as of the taking of possession by the condemning authority, by giving written notice to Tenant of such election within thirty (30) days after receipt of notice of a taking by condemnation of any part of the Premises or the Project. Any award for the taking of all or any part of the Premises or the Project under the power of eminent domain or any payment made under threat of the exercise of such power shall be the property of Landlord, whether such award shall be made as compensation for diminution in value of the leasehold, for goodwill, for the taking of the fee, as severance damages, or as damages for tenant improvements; provided, however, that Tenant shall be entitled to separately pursue a separate award for loss of or damage to Tenant's removable personal property, moving expenses and any other claims to which Tenant may be entitled. In the event that this Lease is not terminated by reason of such condemnation, and subject to the requirements of any lender that has made a loan to Landlord encumbering the Project, Landlord shall to the extent of severance damages received by Landlord in connection with such condemnation, repair any damage to the Project caused by such condemnation except to the extent that Tenant has been reimbursed therefor by the condemning authority. Tenant shall pay any amount in excess of such severance damages required to complete such repair. This Section, not general principles of law shall govern the rights and obligations of Landlord and Tenant with respect to the condemnation of all or any portion of the Project.

**Section 16.** **Parking.** During the Term and subject to the rules and regulations attached hereto as Exhibit "C", as modified by Landlord from time to time (the "Rules"), Tenant shall be entitled to use the number of parking spaces set forth in Section 1.13 in the parking facility of the Project. Landlord may, in its sole discretion, designate the location of any reserved parking spaces from time to time. For purposes of this Lease, a "parking space" refers to the space in which one (1) motor vehicle is intended to park. If Tenant commits or allows in the parking facility any of the activities prohibited by the Lease or the Rules, then Landlord shall have the right, without notice, in addition to such other rights and remedies that it may have, to remove or tow away the vehicle involved and charge the cost to Tenant, which cost shall be immediately payable by Tenant upon demand by Landlord. Tenant's parking rights are the personal rights of Tenant and Tenant shall not transfer, assign, or otherwise convey its parking rights separate and apart from this Lease.

**Section 17.** **Broker's Fee.** Tenant and Landlord each represent and warrant to the other that neither has had any dealings or entered into any agreements with any person, entity, broker or finder other than the persons, if any, listed in Section 1.15, in connection with the negotiation of this Lease, and no other broker, person, or entity is entitled to any commission or finder's fee in connection with the negotiation of this Lease, and Tenant and Landlord each agree to indemnify, defend and hold the other harmless from and against any claims, damages, costs, expenses, attorneys' fees or liability for compensation or charges which may be claimed by any such unnamed broker, finder or other similar party by reason of any dealings, actions or agreements of the indemnifying party.

**Section 18.** **Estoppel Certificate.** Tenant shall from time to time upon not less than thirty (30) days' prior written notice from Landlord execute, acknowledge and deliver to Landlord a statement in writing certifying such information as Landlord may reasonably request including, but not limited to, the following, in the form set forth as Exhibit D attached hereto: (a) that this Lease is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying that this Lease, as so modified, is in full force and effect) (b) the date to which the Base Rent and other charges are paid in advance and the amounts so payable, (c) that there are not, to Tenant's knowledge, any uncured defaults or unfulfilled obligations on the part of Landlord, or specifying such defaults or unfulfilled obligations, if any are claimed, (d) that all tenant improvements to be constructed by Landlord, if any, have been completed in accordance with Landlord's obligations and (e) that Tenant has taken possession of the Premises. Any such statement may be conclusively relied upon by any prospective purchaser or encumbrancer of the Project. At Landlord's option, the failure of Tenant to deliver such statement within such time shall constitute a material default of Tenant hereunder, or it shall be conclusive upon Tenant that (a) this Lease is in full force and effect, without modification except as may be represented by Landlord, (b) there are no uncured defaults in Landlord's performance, (c) not more than one month's Base Rent has been paid in advance, (d) all tenant improvements to be constructed by Landlord, if any, have been completed in accordance with Landlord's obligations and (e) Tenant has taken possession of the Premises.

**Section 19.** **Financial Information.** From time to time, but not more often than once every 12-months, except in connection with the sale or refinancing of the Building, at Landlord's request, Tenant shall cause the following financial information to be delivered to Landlord, at Tenant's sole cost and expense, upon not less than thirty (30) days' advance written notice from Landlord: (a) a current financial statement for Tenant and Tenant's financial statements for the previous two accounting years, (b) a current financial statement for any guarantor(s) of this Lease and the guarantor(s) financial statements for the previous two accounting years and (c) such other financial information pertaining to Tenant or any guarantor as Landlord or any lender or purchaser of Landlord may reasonably request. All financial statements shall be prepared in accordance with generally accepted accounting principles consistently applied and, if such is the normal practice of Tenant, shall be audited by an independent certified public accountant. Landlord shall keep such financial information strictly confidential and shall not share it with anyone except for its employees, investors, accountants, attorneys, lenders and other third party's with a bona fide need to know. Tenant hereby authorizes Landlord, from time to time, without notice to Tenant, to obtain a credit report or credit history on Tenant from any credit reporting company.

**Section 20.** **Landlord's Liability.** Tenant acknowledges that Landlord shall have the right to transfer all or any portion of its interest in the Project and to assign this Lease to the transferee. Tenant agrees that in the event of such a transfer Landlord shall automatically be released from all liability under this Lease; and Tenant hereby agrees to look solely to Landlord's transferee for the performance of Landlord's obligations hereunder after the date of the transfer. Upon such a transfer, Landlord shall, at its option, return Tenant's security deposit to Tenant or transfer Tenant's security deposit to Landlord's transferee and, in either event, Landlord shall have no further liability to Tenant for the return of its security deposit. Subject to the rights of any lender holding a mortgage or deed of trust encumbering all or part of the Project, Tenant agrees to look solely to Landlord's equity interest in the Project for the collection of any judgment requiring the money by Landlord arising out of (a) Landlord's failure to perform its obligations under this Lease or (b) the neg or willful misconduct of Landlord, its partners, employees and agents. No other property or assets of

to levy, execution or other enforcement procedure for the satisfaction of any judgment or writ obtained by Tenant against Landlord. No partner, employee or agent of Landlord shall be personally liable for the performance of Landlord's obligations hereunder or be named as a party in any lawsuit arising out of or related to, directly or indirectly, this Lease and the obligations of Landlord hereunder. The obligations under this Lease do not constitute personal obligations of the individual partners of Landlord, if any, and Tenant shall not seek recourse against the individual partners of Landlord or their assets. Tenant agrees to use and occupy the Premises and other facilities of the Building and associated car parking facilities at Tenant's own risk and except as otherwise expressly provided herein to the contrary hereby releases Landlord, its officers, agents and employees, from all claims and causes of action for any damage or injury to the fullest extent permitted by law even though caused or alleged to be caused in whole or in part by the negligence or fault of Landlord and even though any such claim is based upon or alleged to be based upon the strict liability of Landlord (other than a claim caused by the sole gross negligence or willful misconduct of Landlord). Tenant agrees that Landlord shall not be responsible or liable to Tenant, its employees, servants, agents, customers, invitees or visitors for bodily injury (fatal or nonfatal) or property damage occasioned by the acts or omissions of any other tenant or such tenant's employees, agents, contractors, customers, or invitees within the Building or on the Land.

## Section 21.      *Indemnity.*

21.1 Tenant hereby agrees to indemnify, defend and hold harmless Landlord and its employees, partners, agents, contractors, lenders and ground lessors (said persons and entities are hereinafter collectively referred to as the "Landlord Indemnified Parties") from and against any and all liabilities, losses, costs, damages, claims, loss of rents, liens, judgments, penalties, fines, settlement costs, investigation costs, the cost of consultants and experts, attorneys fees, court costs and other legal expenses, the effects of environmental contamination, the cost of environmental testing, the removal, remediation and/or abatement of Hazardous Substances (as said terms are defined below), insurance policy deductibles and other expenses (hereinafter collectively referred to as "Damages") arising out of or related to (a) Tenant's or its employees, agents, contractors or invitees (all of said persons or entities are hereinafter collectively referred to as "Tenant Parties") use or occupancy of the Premises or the Project except to the extent caused by the negligence or fault of Landlord or any of the Indemnified Parties, (b) any act, omission or neglect of a Tenant Party, (c) Tenant's failure to perform any of its obligations under the Lease, (d) the existence, use or disposal of any Hazardous Substance (as defined in Section 23 below) brought on to the project by a Tenant Party, or (e) any other matters for which Tenant has agreed to indemnify Landlord pursuant to any other provision of this Lease. This indemnity is intended to apply to the fullest extent permitted by applicable law. Tenant's obligations under this Section shall survive the expiration or termination of this Lease unless specifically waived in writing by Landlord after said expiration or termination.

21.2 Landlord hereby agrees to indemnify, defend and hold harmless Tenant and its employees, partners, agents, contractors, lenders and subtenants from and against any and all third party claims arising out of or related to (a) negligence or willful misconduct of Landlord or its employees, or (b) Landlord's failure to perform any of its obligations under the Lease. This indemnity is intended to apply to the fullest extent permitted by applicable law. Landlord's obligations under this Section shall survive the expiration or termination of this Lease unless specifically waived in writing by Tenant after said expiration or termination.

Section 22.      *Signs.* Landlord shall provide Tenant with Building-standard lobby directory signage and suite signage at Landlord's cost for installation. All signage, including size, color, general appearance, and panel location shall be subject to Landlord's reasonable approval and compliance with all governmental regulations. Tenant shall be responsible for all costs and fees associated with Tenant's signage, including Building fees, permits, fees, installation costs, illumination, and maintenance.

## Section 23.      *Hazardous Substances.*

23.1 ***Definition and Consent.*** The term "Hazardous Substance" as used in this Lease shall mean any product, substance, chemical, material or waste whose presence, nature, quantity and/or intensity of existence, use, manufacture, disposal, transportation, spill, release or affect, either by itself or in combination with other materials expected to be on the Premises, is either: (a) potentially injurious to the public health, safety or welfare, the environment or the Premises, (b) regulated or monitored by any governmental entity, (c) a basis for liability of Landlord to any governmental entity or third party under any federal, state or local statute or common law theory or (d) defined as a hazardous material or substance by any applicable present and future statutes, regulations, ordinances, rules, codes, or other similar enactments of any governmental authority or agency, and any applicable judicial, administrative or regulatory decrees, judgments, orders, or policies regulating or relating to any hazardous substances or materials or pertaining to health, safety, industrial hygiene, or

the environmental conditions on, under, or about the Premises or the environment, including, without limitation, the following: the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"); the Resource Conservation and Recovery Act; the Toxic Substances Control Act; the Clean Air Act; the Federal Water Pollution Control Act; the Federal Hazardous Materials Transportation Act; and all state and local counterparts, supplements or additions thereto, and any regulations or policies promulgated or issued thereunder (collectively, "Environmental Requirements"). Except for small quantities or ordinary office or medical office supplies such as copier toner, liquid paper, glue, ink and common household cleaning materials, Tenant shall not cause or permit any Hazardous Substance to be brought, kept, used or stored in or about the Premises or the Project by Tenant, its agents, employees, contractors or invitees.

**23.2     *Duty to Inform Landlord.*** If Tenant knows, or has reasonable cause to believe, that a Hazardous Substance, or a condition involving or resulting from same, has come to be located in, on or under or about the Premises or the Project, Tenant shall immediately give written notice of such fact to Landlord. Tenant shall also immediately give Landlord (without demand by Landlord) a copy of any statement, report, notice, registration, application, permit, license, given to or received from, any governmental authority or private party, or persons entering or occupying the Premises, concerning the presence, spill, release, discharge of or exposure to, any Hazardous Substance or contamination in, on or about the Premises or the Project.

**23.3     *Inspection; Compliance.*** Landlord and Landlord's employees, agent, contractors and lenders shall have the right to enter the Premises at any time in the case of an emergency, and otherwise at reasonable times, for the purpose of inspecting the condition of the Premises and for verifying compliance by Tenant with this Section 23. Landlord shall have the right to employ experts and/or consultants in connection with its examination of the Premises and with respect to the installation, operation, use, monitoring, maintenance, or removal of any Hazardous Substance on or from the Premises. The costs and expenses of any such inspections shall be paid by the party requesting same, unless a contamination, caused or materially contributed to by Tenant, is found to exist or be imminent, or unless the inspection is requested or ordered by governmental authority as the result of any such existing or imminent violation or contamination. In any such case, Tenant shall upon request reimburse Landlord for the cost and expenses of such inspection.

**23.4     *Environmental Indemnity.*** Tenant shall indemnify, defend, and hold Landlord and its partners, officers, directors, agents and employees harmless from and against any and all manner of losses (including, without limitation, diminution in value of the Premises or the Building and loss of rental income from the Building), claims, demands, actions, suits, damages (including, without limitation, punitive damages), fines, penalties, administrative and judicial proceedings, judgments, settlements, expenses (including, without limitation, consultant fees, attorneys' fees, or expert fees) which arise from acts of or caused by Tenant Parties during or after the Term which are brought or recoverable against, or suffered or incurred by Landlord or such parties as a result of any breach of the obligations under this Section 23 or noncompliance with any Environmental Requirement by Tenant, its agents, employees, contractors, subtenants, or invitees, regardless of whether Tenant had knowledge of such noncompliance. The indemnification and hold harmless obligations of Tenant shall survive any termination of this Lease, any renewal, expansion or amendment of this Lease and/or the execution and delivery of any new lease with Tenant covering all or any portion of the Project.

**Section 24.     *Tax Waiver.*** Tenant hereby waives all rights pursuant to all applicable laws to protest appraised values or receive notice of reappraisal regarding the Project or any portion thereof (including Landlord's personality), irrespective of whether Landlord contests same.

**Section 25.     *Tenant Improvements.*** Tenant acknowledges and agrees that Landlord shall not be obligated to construct any tenant improvements on behalf of Tenant unless a work letter agreement (the "Work Letter") is attached to this Lease as an exhibit. If a space plan is attached to the Work Letter, the space plan shall not be binding on Landlord unless the space plan has been approved by Landlord in writing. Except as set forth in a Work Letter, it is specifically understood and agreed that Landlord has no obligation and has made no promises to alter, remodel, improve, renovate, repair or decorate the Premises, the Project, or any part thereof, or to provide any allowance for such purposes, and that no representations respecting the condition of the Premises or the Project have been made by Landlord to Tenant.

**Section 26.     *Subordination.***

**26.1     *Effect of Subordination.*** This Lease, and any Option (as defined in Section 27 below) granted hereby, upon Landlord's written election, shall be subject and subordinate to any ground lease, mortgage, deed of trust, or any other hypothecation or security now or hereafter placed upon the Project (each, an "Encumbrance") and to any and all alterations made on the security thereof and to all renewals, modifications, consolidations, replacements and extensions thereof; provided

that the holder of any such Encumbrance, shall execute and deliver to Tenant a nondisturbance and attornment agreement which provides that so long as no default has occurred and is continuing beyond the period of time allowed for the remedy thereof under the terms of the Lease, the holder of such Encumbrance shall not disturb Tenant's leasehold interest or possession of the Premises in accordance with the terms hereof. Landlord shall deliver to Tenant a subordination, nondisturbance and attornment agreement in accordance with the terms of the preceding sentence with respect to each Encumbrance which now constitutes a lien against the Project. At the request of any mortgagee, trustee or ground lessor, or any other person succeeding to Landlord's interest in the Premises, whether by purchase, foreclosure, deed in lieu of foreclosure, power of sale, termination of ground lease or otherwise, Tenant shall attorn to such person or entity. If any mortgagee, trustee or ground lessor shall elect to have this Lease and any Options granted hereby prior to the lien of its mortgage, deed of trust or ground lease, and shall give written notice thereof to Tenant, this Lease and such Options shall be deemed prior to such mortgage, deed of trust or ground lease, whether this Lease or such Options are dated prior or subsequent to the date of said mortgage, deed of trust or ground lease or the date of recording thereof. In the event of any person succeeding to Landlord's interest in the Premises, such successor shall not (a) be liable for any act or omission of any prior landlord or with respect to events occurring prior to its acquisition of title, (b) be liable for the breach of this Lease by any prior landlord, (c) be subject to any offsets or defenses which Tenant may have against the prior landlord (other than as may expressly set forth in this Lease) or (d) be liable to Tenant for the return of its security deposit.

**26.2 Execution of Documents.** Tenant agrees to execute and acknowledge any commercially reasonable documents Landlord reasonably requests that Tenant execute to effectuate an attornment, a subordination, or to make this Lease or any Option granted herein prior to the lien of any mortgage, deed of trust or ground lease, as the case may be; provided such instrument contains the non-disturbance language described in Section 26.1 above. Tenant's failure to execute such documents within thirty (30) days after written demand shall constitute a material default by Tenant hereunder.

**Section 27. Options.**

**27.1 Definition.** As used in this Lease, the word "Option" has the following meaning: (1) the right or option to extend the Term or to renew this Lease, (2) the option or right of first refusal to lease the Premises or the right of first offer to lease the Premises or the right of first refusal to lease other space within the Project or the right of first offer to lease other space within the Project, and (3) the right or option to terminate this Lease prior to its expiration date or to reduce the size of the Premises. Any Option granted to Tenant by Landlord must be evidenced by a written option attached to this Lease as an exhibit, rider or addendum or said option shall be of no force or effect.

**27.2 Options Personal.** Each Option granted to Tenant in this Lease, if any, is personal to the original Tenant and may be exercised only by the original Tenant while occupying the entire Premises and may not be exercised or be assigned, voluntarily or involuntarily, by or to any person or entity other than Tenant; provided, however, Options may be exercised by assignees pursuant to a Permitted Transfer. The Options, if any, herein granted to Tenant are not assignable separate and apart from this Lease, nor may any Option be separated from this Lease in any manner, either by reservation or otherwise.

**27.3 Multiple Options.** In the event that Tenant has multiple Options to extend or renew this Lease a later Option cannot be exercised unless the prior Option to extend or renew this Lease has been so exercised.

**27.4 Effect of Default on Options.** Tenant shall have no right to exercise an Option (i) during the time commencing from the date Landlord gives to Tenant a notice of default pursuant to Section 13.1 and continuing until the noncompliance alleged in said notice of default is cured, or (ii) if Tenant is in default of any of the terms, covenants or conditions of this Lease. The period of time within which an Option may be exercised shall not be extended or enlarged by reason of Tenant's inability to exercise an Option because of the provisions of this Section 27.4.

**27.5 Limitations on Options.** Notwithstanding anything to the contrary contained in any rider or addendum to this Lease, any options, rights of first refusal or rights of first offer granted hereunder shall be subject and subordinated to any other options, rights of first refusal or rights of first offer previously given to any other person or entity.

**27.6 Notice of Exercise of Option.** Notwithstanding anything to the contrary contained in Section 41, Tenant may only exercise an Option by delivering its written notice of exercise to Landlord by certified mail, return receipt and date of delivery requested or by Federal Express or other nationally recognized overnight courier. It shall be Tenant's obligation to prove that such notice was so sent in a timely manner and was delivered to Landlord by the U.S. Postal Service or by Federal Express or other nationally recognized overnight courier.

**Section 28.** ***Landlord Reservations.*** Landlord shall have the right: (a) to change the name and address of the Project or Building upon not less than ninety (90) days prior written notice; (b) to, at Tenant's expense, provide and install Building standard graphics on or near the door of the Premises and such portions of the Common Areas as Landlord shall determine, in Landlord's sole discretion; (c) to permit any tenant the exclusive right to conduct any business as long as such exclusive right does not conflict with any rights expressly given herein; and (d) to place signs, notices or displays upon the roof, interior, exterior or Common Areas of the Project. Tenant shall not use a representation (photographic or otherwise) of the Building or the Project or their name(s) in connection with Tenant's business or suffer or permit anyone, except in an emergency, to go upon the roof of the Building. Landlord reserves the right to use the exterior walls of the Premises, and the area beneath, adjacent to and above the Premises together with the right to install, use, maintain and replace equipment, machinery, pipes, conduits and wiring through the Premises, which serve other parts of the Project provided that Landlord's use does not unreasonably interfere with Tenant's use of the Premises.

**Section 29.** ***Changes to Project.*** Landlord shall have the right, in Landlord's sole discretion, from time to time, to make changes to the size, shape, location, number and extent of the improvements comprising the Project and to add additional real property to the Project (hereinafter collectively referred to as "Changes") including, but not limited to, the Project interior and exterior, the Common Areas, elevators, escalators, restrooms, HVAC, electrical systems, communication systems, fire protection and detection systems, plumbing systems, security systems, parking control systems, driveways, entrances, parking spaces, parking areas, landscaped areas and additional buildings. In the event Landlord adds to the Project any additional building containing rentable area, Landlord may elect to include certain operating expenses and/or real property taxes with respect to any such additional building as Operating Expenses and/or Real Property Taxes (as the case may be), in which case Tenant's Share with respect to such expenses and/or real property taxes shall be modified to reflect the additional rentable area of such additional building. In connection with the Changes, Landlord may, among other things, erect scaffolding or other necessary structures at the Project, limit or eliminate access to portions of the Project, including portions of the Common Areas, or perform work in the Building, which work may create noise, dust or leave debris in the Building. Tenant hereby agrees that such Changes and Landlord's actions in connection with such Changes shall in no way constitute a constructive eviction of Tenant or entitle Tenant to any abatement of rent. Landlord shall exercise reasonable care to minimize unreasonable interference with Tenant's peaceful occupancy of the Premises and use of the Project in connection with any such Changes.

**Section 30.** ***Intentionally Omitted.***

**Section 31.** ***Holding Over.*** If Tenant remains in possession of the Premises or any part thereof after the expiration or earlier termination of the Term hereof with Landlord's consent, such occupancy shall be a tenancy from month to month upon all the terms and conditions of this Lease pertaining to the obligations of Tenant, except that the Base Rent payable shall be one hundred fifty percent (150%) of the Base Rent payable immediately preceding the termination date of this Lease, and all Options, if any, shall be deemed terminated and be of no further effect. If Tenant remains in possession of the Premises or any part thereof after the expiration of the Term hereof without Landlord's consent, Tenant shall, at Landlord's option, be treated as a tenant at sufferance or a trespasser. Nothing contained herein shall be construed to constitute Landlord's consent to Tenant holding over at the expiration or earlier termination of the Term or to give Tenant the right to hold over after the expiration or earlier termination of the Term.

**Section 32.** ***Landlord's Access.***

**32.1 Access.** Landlord and Landlord's agents, contractors and employees shall have the right, with reasonable prior notice to Tenant (not less than 24-hours), to enter the Premises at reasonable times for the purpose of inspecting the Premises, performing any services required of Landlord, showing the Premises to prospective purchasers, lenders, or tenants (during the last nine (9) months of the Term), undertaking safety measures and making alterations, repairs, improvements or additions to the Premises or to the Project. In the event of an emergency, Landlord may gain access to the Premises by any reasonable means without notice to Tenant, and Landlord shall not be liable to Tenant for damage to the Premises or to Tenant's property resulting from such access. Landlord may at any time place on or about the Building for sale or for lease signs and Landlord may at any time during the last one hundred twenty (120) days of the Term hereof place on or about the Premises for lease signs.

**32.2 Keys.** Landlord shall have the right to retain keys to the locks on the entry doors to the Premises and all interior doors at the Premises. At Landlord's option, Landlord may require Tenant to obtain all keys to ~~door locks at the~~ Premises from Landlord's engineering staff or Landlord's locksmith and to only use Landlord's ~~engineering staff or~~

Landlord's locksmith to change locks at the Premises. Tenant shall pay Landlord's or its locksmith's standard charge for all keys and other services obtained from Landlord's engineering staff or locksmith.

**Section 33. Security Measures.** Tenant hereby acknowledges that Landlord shall have no obligation whatsoever to provide guard service or other security measures for the benefit of the Premises or the Project, and Landlord shall have no liability to Tenant due to its failure to provide such services. Tenant assumes all responsibility for the protection of Tenant, its agents, employees, contractors and invitees and the property of Tenant and of Tenant's agents, employees, contractors and invitees from acts of third parties. Nothing herein contained shall prevent Landlord, at Landlord's sole option, from implementing security measures for the Project or any part thereof, in which event Tenant shall participate in such security measures and the cost thereof shall be included within the definition of Operating Expenses, and Landlord shall have no liability to Tenant and its agents, employees, contractors and invitees arising out of Landlord's negligent provision of security measures. Landlord shall have the right, but not the obligation, to require all persons entering or leaving the Project to identify themselves to a security guard and to reasonably establish that such person should be permitted access to the Project.

**Section 34. Easements.** Landlord reserves to itself the right, from time to time, to grant such easements, rights and dedications that Landlord deems necessary or desirable, and to cause the recordation of parcel maps and restrictions, so long as such easements, rights, dedications, maps and restrictions do not unreasonably interfere with the use of the Premises by Tenant. Tenant shall sign any of the aforementioned documents within ten (10) days after Landlord's request and Tenant's failure to do so shall constitute a material default by Tenant. The obstruction of Tenant's view, air, or light by any structure erected in the vicinity of the Project, whether by Landlord or third parties, shall in no way affect this Lease or impose any liability upon Landlord.

**Section 35. Transportation Management.** Tenant shall fully comply with all present or future programs implemented or required by any governmental or quasi-governmental entity or Landlord to manage parking, transportation, air pollution, or traffic in and around the Project or the metropolitan area in which the Project is located.

**Section 36. Severability.** The invalidity of any provision of this Lease as determined by a court of competent jurisdiction shall in no way affect the validity of any other provision hereof.

**Section 37. Time of Essence.** Time is of the essence with respect to each of the obligations to be performed by Tenant and Landlord under this Lease.

**Section 38. Definition of Additional Rent.** All monetary obligations of Tenant to Landlord under the terms of this Lease, including, but not limited to, Base Rent, Tenant's Share of Excess Operating Expenses and Real Property Taxes, parking charges, late charges and charges for after-hours HVAC shall be deemed to be rent.

**Section 39. Incorporation of Prior Agreements.** This Lease and the attachments listed in Section 1.16 contain all agreements of the parties with respect to the lease of the Premises and any other matter mentioned herein. No prior or contemporaneous agreement or understanding pertaining to any such matter shall be effective. Except as otherwise stated in this Lease, Tenant hereby acknowledges that no real estate broker nor Landlord or any employee or agents of any of said persons has made any oral or written warranties or representations to Tenant concerning the condition or use by Tenant of the Premises or the Project or concerning any other matter addressed by this Lease.

**Section 40. Amendments.** This Lease may be modified in writing only, signed by the parties in interest at the time of the modification.

**Section 41. Notices.** Subject to the requirements of Section 27.6 of this Lease, all notices required or permitted by this Lease shall be in writing and may be delivered (a) in person (by hand, by messenger or by courier service), (b) by U.S. Postal Service regular mail, (c) by U.S. Postal Service certified mail, return receipt requested, or (d) by U.S. Postal Service Express Mail, Federal Express or other nationally recognized overnight courier. The addresses set forth in Section 1.17 of this Lease shall be the address of each party of notice purposes. Landlord or Tenant may by written notice to the other specify a different address for notices purposes, except that upon Tenant's taking possession of the Premises, the Premises shall constitute Tenant's address for the purpose of mailing or delivering notices to Tenant. Any notice sent by regular mail or by certified mail, return receipt requested, shall be deemed given three (3) days after deposited with the U.S. Postal Service. Notices delivered by U.S. Express Mail, Federal Express or other courier shall be deemed given on the date delivered by the carrier to the appropriate party's address for notice purposes. If notice is received on Saturday, Sunday or a legal holiday, it shall be deemed received on the next business day.

**Section 42.** *Waivers.* No waiver by Landlord or Tenant of any provision hereof shall be deemed a waiver of any other provision hereof or of any subsequent breach by Landlord or Tenant of the same or any other provision. Waiver by Landlord or Tenant of any breach of any obligation by the other party shall be effective only if it is in writing, and shall not be deemed a waiver of any other breach, or any subsequent breach of the same obligation. Landlord's consent to, or approval of, any act shall not be deemed to render unnecessary the obtaining of Landlord's consent to or approval of any subsequent act by Tenant. The acceptance of rent hereunder by Landlord shall not be a waiver of any preceding breach by Tenant of any provision hereof, other than the failure of Tenant to pay the particular rent so accepted, regardless of Landlord's knowledge of such preceding breach at the time of acceptance of such rent. No acceptance by Landlord of partial payment of any sum due from Tenant shall be deemed a waiver by Landlord of its right to receive the full amount due, nor shall any endorsement or statement on any check or accompanying letter from Tenant be deemed an accord and satisfaction. Tenant hereby waives for Tenant and all those claiming under Tenant all rights now or hereafter existing to redeem by order or judgment of any court or by legal process or writ, Tenant's right of occupancy of the Premises after any termination of this Lease.

**Section 43.** *Covenants.* This Lease shall be construed as though Landlord's covenants contained herein are independent and not dependent and Tenant hereby waives the benefit of any statute to the contrary. All provisions of this Lease to be observed or performed by Tenant are both covenants and conditions.

**Section 44.** *Binding Effect; Choice of Law.* Subject to any provision hereof restricting assignment or subletting by Tenant, this Lease shall bind the parties, their heirs, personal representatives, successors and assigns. This Lease shall be governed by the laws of the state in which the Project is located and any litigation concerning this Lease between the parties hereto shall be initiated in the county in which the Project is located.

**Section 45.** *Attorneys' Fees.* If Landlord or Tenant brings an action to enforce the terms hereof or declare rights hereunder, the prevailing party in any such action, or appeal thereon, shall be entitled to its reasonable attorneys' fees and court costs to be paid by the losing party as fixed by the court in the same or separate suit, and whether or not such action is pursued to decision or judgment. The attorneys' fee award shall not be computed in accordance with any court fee schedule, but shall be such as to fully reimburse all attorneys' fees and court costs reasonably incurred in good faith. Landlord and Tenant agree that attorneys' fees incurred with respect to defaults and bankruptcy are actual pecuniary losses within the meaning of Section 365(b)(1)(B) of the Bankruptcy Code or any successor statute.

**Section 46.** *Auctions.* Tenant shall not conduct, nor permit to be conducted, either voluntarily or involuntarily, any auction upon the Premises or the Common Areas. The holding of any auction on the Premises or Common Areas in violation of this Section 46 shall constitute a material default hereunder.

**Section 47.** *Asbestos Disclosure.* Landlord hereby discloses to Tenant that certain materials used in the construction, completion, repair or maintenance of the Building may contain asbestos. Tenant hereby acknowledges the presence of such materials in the Building and agrees that Landlord shall in no event have any obligation to Tenant hereunder to remove such materials. Tenant further acknowledges that Landlord has implemented an operations and management program (the "O&M Program") in order to manage the presence of such materials in the Building in accordance with all federal regulations. In connection with the O&M Program, Tenant agrees that all construction and maintenance activities performed by Tenant or its employees, agents or contractors must be coordinated through the manager of the Building and only trained and licensed personnel will be allowed access to the service areas of the Building. Tenant further acknowledges and agrees that in the event Tenant or its agents, employees or contractors come into contact with such materials in connection with Tenant's construction and/or installation of any alterations, additions or improvements to the Premises hereunder, Tenant is and shall be solely responsible for the encapsulation and containment of same and any and all remedial actions which may be necessary by virtue of such contact. In no event shall Landlord be liable for any increase in the cost of such alterations, additions or improvements which may result by virtue of the existence of such asbestos-containing materials and the necessary handling and treatment of same.

**Section 48.** *Merger.* The voluntary or other surrender of this Lease by Tenant, or a mutual cancellation thereof, or a termination by Landlord, shall not result in the merger of Landlord's and Tenant's estates, and shall, at the option of Landlord, terminate all or any existing subtenancies or may, at the option of Landlord, operate as an assignment to Landlord of any or all of such subtenancies.

Section 49.      ***Quiet Possession.*** Subject to the other terms and conditions of this Lease, and the rights of any lender, and provided Tenant is not in default hereunder, Tenant shall have quiet possession of the Premises for the entire Term hereof subject to all of the provisions of this Lease.

Section 50.      ***Authority.*** Tenant represents and warrants that each individual executing this Lease on behalf of Tenant is duly authorized to execute and deliver this Lease on behalf of Tenant and that Tenant is duly authorized to enter into this Lease.

Section 51.      ***Conflict.*** Except as otherwise provided herein to the contrary, any conflict between the printed provisions, exhibits, addenda or riders of this Lease and the typewritten or handwritten provisions, if any, shall be controlled by the typewritten or handwritten provisions.

Section 52.      ***Multiple Parties.*** If more than one person or entity is named as Tenant herein, the obligations of Tenant shall be the joint and several responsibility of all persons or entities named herein as Tenant. Service of a notice in accordance with Section 41 on one Tenant shall be deemed service of notice on all Tenants.

Section 53.      ***Interpretation.*** This Lease shall be interpreted as if it was prepared by both parties and ambiguities shall not be resolved in favor of Tenant because all or a portion of this Lease was prepared by Landlord. The captions contained in this Lease are for convenience only and shall not be deemed to limit or alter the meaning of this Lease. As used in this Lease the words tenant and landlord include the plural as well as the singular. Words used in the neuter gender include the masculine and feminine gender.

Section 54.      ***Prohibition Against Recording.*** Neither this Lease, nor any memorandum, affidavit or other writing with respect thereto, shall be recorded by Tenant or by anyone acting through, under or on behalf of Tenant. Landlord, at its sole cost and expense, shall have the right to record a memorandum of this Lease, and Tenant shall execute, acknowledge and deliver to Landlord for recording any memorandum prepared by Landlord.

Section 55.      ***Relationship of Parties.*** Nothing contained in this Lease shall be deemed or construed by the parties hereto or by any third party to create the relationship of principal and agent, partnership, joint venturer or any association between Landlord and Tenant.

Section 56.      ***Rules and Regulations.*** Tenant agrees to abide by and conform to the Rules and to cause its employees, suppliers, customers and invitees to so abide and conform. Landlord shall have the right, from time to time, to modify and amend the Rules; provided, however, that no such modifications or amendments shall materially and adversely affect Tenant's rights and obligation under this Lease. Any conflict between this Lease and the Rules shall be resolved in favor of this Lease. Landlord shall not be responsible to Tenant for the failure of other persons including, but not limited to, other tenants, their agents, employees and invitees to comply with the Rules.

Section 57.      ***Right to Lease.*** Landlord reserves the absolute right to effect such other tenancies in the Project as Landlord in its sole discretion shall determine, and Tenant is not relying on any representation that any specific tenant or number of tenants will occupy the Project.

Section 58.      ***Intentionally Omitted.***

Section 59.      ***Intentionally Omitted.***

Section 60.      ***Attachments.*** The items listed in Section 1.16 are a part of this Lease and are incorporated herein by this reference.

Section 61.      ***Intentionally Omitted.***

Section 62.      ***DTPA.*** It is the intent of Landlord and Tenant that the provisions of the Texas Deceptive Trade Practices-Consumer Protection Act, Subchapter E of Chapter 17 of the Texas Business and Commerce Code (the "DTPA") be inapplicable to this Lease and the transaction evidenced hereby. Accordingly, Tenant hereby represents and warrants to Landlord as follows:

- (i)      The total consideration paid or to be paid by Tenant over the term of this Lease exceeds \$100,000.00;

- (ii) Tenant is represented by legal counsel of its own choice and designation in connection with the transaction contemplated by the Lease;
- (iii) Tenant's counsel was not directly or indirectly identified, suggested, or selected by Landlord or an agent of Landlord; and
- (iv) Tenant is leasing the Premises for business or commercial purposes, not for use as Tenant's residence.

## WAIVER OF CONSUMER RIGHTS

**TENANT WAIVES ITS RIGHTS UNDER THE DECEPTIVE TRADE PRACTICES-CONSUMER PROTECTION ACT, SECTION 17.41 ET. SEQ. BUSINESS & COMMERCE CODE, A LAW THAT GIVES CONSUMERS SPECIAL RIGHTS AND PROTECTIONS. AFTER CONSULTATION WITH AN ATTORNEY OF TENANT'S OWN SELECTION, TENANT VOLUNTARILY CONSENTS TO THIS WAIVER**

**Section 63.** *Method of Calculation.* Landlord and Tenant are knowledgeable and experienced in commercial transactions and agree that the provisions of this Lease for determining Operating Expenses and other charges, amounts and additional rent payable by Tenant hereunder are commercially reasonable and valid and constitute satisfactory methods for determining such charges, amounts and additional rents as required under Section 93.012 of the TEXAS PROPERTY CODE, even though such methods may not state a precise mathematical formula for determining same.

**Section 64.** *Indemnity Provisions.* Landlord and Tenant each acknowledge that Sections 7.3(d), 12.1, 17, 21, 23.4 and 31 of this Lease contain provisions whereby one party indemnifies the other party for certain obligations, liabilities or damages.

**Section 65.**

**LANDLORD AND TENANT ACKNOWLEDGE THAT THEY HAVE CAREFULLY READ AND REVIEWED THIS LEASE AND EACH TERM AND PROVISION CONTAINED HEREIN AND, BY EXECUTION OF THIS LEASE, SHOW THEIR INFORMED AND VOLUNTARY CONSENT THERETO. THE PARTIES HEREBY AGREE THAT, AT THE TIME THIS LEASE IS EXECUTED, THE TERMS OF THIS LEASE ARE COMMERCIALLY REASONABLE AND EFFECTUATE THE INTENT AND PURPOSE OF LANDLORD AND TENANT WITH RESPECT TO THE PREMISES. TENANT ACKNOWLEDGES THAT IT HAS BEEN GIVEN THE OPPORTUNITY TO HAVE THIS LEASE REVIEWED BY ITS LEGAL COUNSEL PRIOR TO ITS EXECUTION. PREPARATION OF THIS LEASE BY LANDLORD OR LANDLORD'S AGENT AND SUBMISSION OF SAME TO TENANT SHALL NOT BE DEEMED AN OFFER BY LANDLORD TO LEASE THE PREMISES TO TENANT OR THE GRANT OF AN OPTION TO TENANT TO LEASE THE PREMISES. THIS LEASE SHALL BECOME BINDING UPON LANDLORD ONLY WHEN FULLY EXECUTED BY BOTH PARTIES AND WHEN LANDLORD HAS DELIVERED A FULLY EXECUTED ORIGINAL OF THIS LEASE TO TENANT.**

**Section 66. *Healthcare Regulatory Provisions.***

66.1 Landlord and Tenant enter into this Lease with the intent of conducting their relationship and implementing the agreements contained herein in full compliance with applicable federal, state and local law, including without limitation, the Medicare/Medicaid Anti-Kickback statute (the "Anti-Kickback Law") and Section 1877 of the Social Security Act (the "Stark Law"), as amended. Notwithstanding any unanticipated effect of any of the provisions of this Lease, neither party will intentionally conduct itself under the terms of this Lease in a manner that would constitute a violation of the Anti-Kickback Law or the Stark Law. Without limiting the generality of the foregoing, Landlord and Tenant expressly agree that nothing contained in this Lease shall require either party to refer any patients to the other, or to any affiliate or subsidiary of the other.

66.2 If any legislation, regulation or government policy is passed or adopted, the effect of which would cause either party to be in violation of such laws due to the existence of any provision of this Lease, then Landlord and Tenant agree to negotiate in good faith to modify the terms of this Lease to comply with a licensable

66.3 Landlord represents and warrants to Tenant that Landlord (i) is not currently excluded, debarred or otherwise ineligible to participate in Medicare or any federal health care program under section 1128 and 1128A of the Social Security Act or as defined in 42 U.S.C. § 1320a-7b(f) (the “Federal Health Care Programs”); (ii) has not been convicted of a criminal offense related to the provision of healthcare items or services; and (iii) is not under investigation or otherwise aware of any circumstances which may result in Landlord being excluded from participation in any Federal Health Care Program. The foregoing representation shall be an ongoing representation and warranty during the term of this Lease and Landlord shall immediately notify Tenant of any change in the status of the representation and warranty set forth in this Section, at which time Tenant will have the right to immediately terminate this Lease.

66.4 For purposes of this Section of this Lease, “protected health information”, or PHI, shall have the meaning defined by the Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R. Part 160 and Subparts A and E of Part 164 (the “Privacy Standards”), as promulgated by the Department of Health and Human Services (“HHS”) pursuant to the Administrative Simplification provisions of the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”). The parties agree that neither the Landlord nor its contractors, subcontractors or agents shall need access to, nor shall they use or disclose, any PHI of Tenant. However, in the event PHI is disclosed by Tenant or its agents to Landlord, its, contractors, subcontractors or agents, regardless as to whether the disclosure is inadvertent or otherwise, Landlord agrees to take reasonable steps to maintain, and to require its contractors, subcontractors and agents to maintain, the privacy and confidentiality of such PHI. The parties agree that the foregoing does not create, and is not intended to create, a “business associate” relationship between the parties as that term is defined by the Privacy Standards.

66.5 Landlord hereby represents and warrants to Tenant that Landlord is not a “Referral Source” (as hereinafter defined) and that no ownership or beneficial interest in Landlord is owned or held by any Referral Source. “Referral Source” shall mean any of the following:

- i. a physician, an immediate family member or member of a physician’s immediate family, an entity owned in whole or in part by a physician or by an immediate family member or member of a physician’s immediate family;
- ii. any other “Person” (as hereinafter defined) who (a) makes, who is in a position to make, or who could influence the making of referrals of patients to any health care facility; (b) has a provider number issued by Medicare, Medicaid or any other government health care program; or (c) provides services to patients who have conditions that might need to be referred for clinical or medical care, and participates in any way in directing, recommending, arranging for or steering patients to any health care provider or facility; or
- iii. any Person or entity that is an “Affiliate” (as hereinafter defined) of any Person or other entity described in clause (i) or (ii) above.

“Immediate family member or member of a physician’s immediate family” means husband or wife; birth or adoptive parent, child, or sibling; stepparent, stepchild, stepbrother, or stepsister; father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law; grandparent or grandchild; and spouse of a grandparent or grandchild.

“Affiliate” shall mean, any Person that directly or indirectly controls or is controlled by or is under common control with a Referral Source. For purposes of this definition, “control” (including the correlative meanings of the terms “controlled by” and “under common control with”), as used herein, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, through the ownership of voting securities, partnership interests or other equity interests.

“Person” shall mean any one or more natural persons, corporations, partnerships, limited liability companies, firms, trusts, trustees, governments, governmental authorities or other entities.

*[Signature Page Follows]*

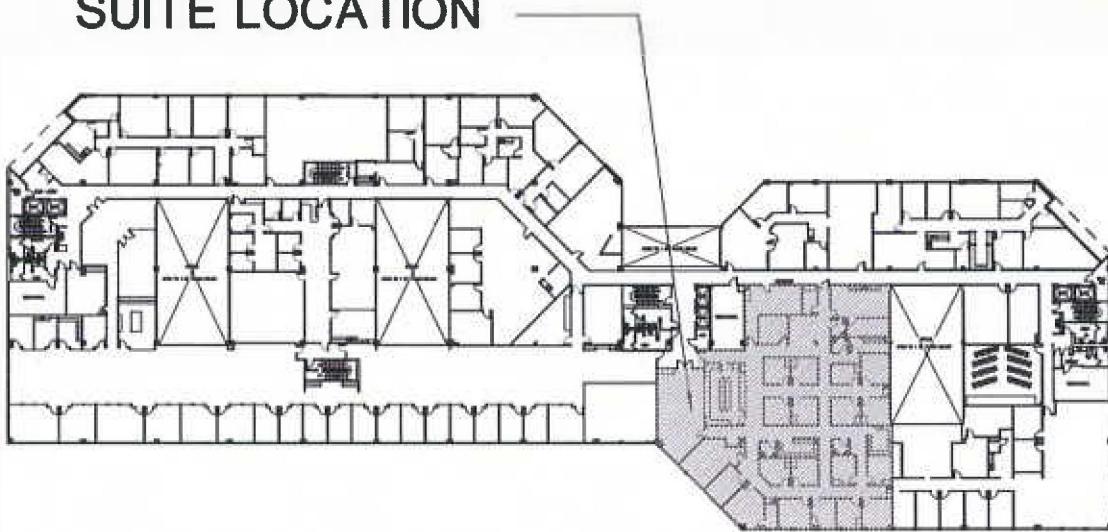
EXECUTED as of the Effective Date.

**EXHIBIT "A"**

**LOCATION OF PREMISES**

The floor plan set forth below or attached immediately behind this page is used solely for the purpose of identifying the approximate location and size of the Premises. Building sizes, site dimensions, access, common and parking areas, and existing tenants and locations are subject to change at Landlord's discretion.

**SUITE LOCATION**



**EXHIBIT "A-1"**

**LAND DESCRIPTION**

6.8667 ACRES (299,113 SQUARE FEET) OF LAND OUT OF LOTS 7 AND 8, BLOCK "D", OF THE R. B. GAUT SUBDIVISION, SOMETIMES CALLED THEM. M. LEVY SUBDIVISION OUT OF THE WILLIAM WHITE SURVEY, ABSTRACT NO. 836, IN THE CITY OF HOUSTON, HARRIS COUNTY, TEXAS; SAID 6.8667 ACRES BEING A PORTION OF THAT CERTAIN 7.1257 ACRE TRACT COVEYED TO S.W. GAYLORD BY DEED RECORDED IN VOLUME 1521, PAGE 504 OF THE DEED RECORDS OF HARRIS COUNTY, TEXAS.

**EXHIBIT "B"**

**ACCEPTANCE LETTER**

\_\_\_\_\_, 20\_\_

Houston, Texas 77056

Attention: \_\_\_\_\_

Re: Lease Agreement (the "Lease") dated \_\_\_\_\_ between Interra-Sky 4801 Woodway, a Texas Limited Liability Company ("Landlord"), and \_\_\_\_\_ ("Tenant"). Capitalized terms used herein but not defined shall be given the meanings assigned to them in the Lease.

Ladies and Gentlemen:

Landlord and Tenant agree as follows:

1. **Condition of Premises.** Tenant has accepted possession of the Premises pursuant to the Lease. Any improvements required by the terms of the Lease to be made by Landlord have been completed to the full and complete satisfaction of Tenant in all respects, and Landlord has fulfilled all of its duties under the Lease with respect to the original construction of such initial tenant improvements. Furthermore, Tenant acknowledges that the Premises are suitable for the Permitted Use.

2. **Commencement Date.** The Commencement Date of the Lease is \_\_\_\_\_.

3. **Expiration Date.** The Term is scheduled to expire on the last day of the \_\_\_ full calendar month following the Rent Commencement Date, which date is \_\_\_\_\_.

4. **Contact Person.** Tenant's contact person in the Premises is:

\_\_\_\_\_  
Attention: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Fax: \_\_\_\_\_

5. **Ratification.** Tenant hereby ratifies and confirms its obligations under the Lease, and represents and warrants to Landlord that it has no defenses thereto. Additionally, Tenant further confirms and ratifies that, as of the date hereof, (a) the Lease is and remains in good standing and in full force and effect, and (b) to its actual knowledge, Tenant has no claims, counterclaims, set-offs or defenses against Landlord arising out of the Lease.

6. **Binding Effect; Governing Law.** Except as modified hereby, the Lease shall remain in full effect and this letter shall be binding upon Landlord and Tenant and their respective successors and assigns. If any inconsistency exists or arises between the terms of this letter and the terms of the Lease, the terms of this letter shall prevail. This letter shall be governed by the laws of the state in which the Premises are located.

Please indicate your agreement to the above matters by signing this letter in the space indicated below and returning an executed original to us.

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT "C"**

**RULES AND REGULATIONS**

**GENERAL RULES**

Tenant shall faithfully observe and comply with the following Rules and Regulations.

1. Tenant shall not alter any locks or install any new or additional locks or bolts on any doors or windows of the Premises without obtaining Landlord's prior written consent. Tenant shall bear the cost of any lock changes or repairs required by Tenant. Keys required by Tenant must be obtained from Landlord at a reasonable cost to be established by Landlord.

2. All doors opening to public corridors shall be kept closed at all times except for normal ingress and egress to the Premises. Tenant shall assume any and all responsibility for protecting the Premises from theft, robbery and pilferage, which includes keeping doors locked and other means of entry to the Premises closed.

3. Landlord reserves the right to close and keep locked all entrance and exit doors of the Project except during the Project's normal hours of business as defined in Section 11.4 of the Lease. Tenant, its employees and agents must be sure that the doors to the Project are securely closed and locked when leaving the Premises if it is after the normal hours of business of the Project. Tenant, its employees, agents or any other persons entering or leaving the Project at any time when it is so locked, or any time when it is considered to be after normal business hours for the Project, may be required to sign the Project register. Access to the Project may be refused unless the person seeking access has proper identification or has a previously received authorization for access to the Project. Landlord and its agents shall in no case be liable for damages for any error with regard to the admission to or exclusion from the Project of any person. In case of invasion, mob, riot, public excitement, or other commotion, Landlord reserves the right to prevent access to the Project during the continuance thereof by any means it deems appropriate for the safety and protection of life and property.

4. Landlord reserves the right, in Landlord's sole and absolute discretion, to close or limit access to the Project and/or the Premises, from time to time, due to the failure of utilities, due to damage to the Project and/or the Premises, to ensure the safety of persons or property or due to government order or directive, and Tenant agrees to immediately comply with any such decision by Landlord. If Landlord closes or limits access to the Project and/or the Premises for the reasons described above, Landlord's actions shall not constitute a breach of the Lease.

5. No furniture, freight or equipment of any kind shall be brought into the Project without Landlord's prior authorization. Tenant shall only move in and out of the Premises at times designated by Landlord, in Landlord's sole discretion (e.g., Landlord could require that all moves in and out of the Premises only occur on weekends or on weekdays between 5:00 p.m. and 11:00 p.m.). All moves in and out of the Premises shall be scheduled with Landlord in advance, on a first come, first served basis. All property shall be moved in and out of the Premises using the freight elevator. Landlord shall have the right, in its sole discretion, to permit only one tenant to move in or out of the Project at a time. When moving equipment, furniture and other items into and out of the Premises, Tenant shall take whatever precautions Landlord designates to protect the Project from damage (e.g., placing plastic or other protective material on carpets in the common areas and the Premises). Landlord shall have the right to prescribe the weight, size and position of all safes and other heavy property brought into the Project and also the times and manner of moving the same in and out of the Project. Safes and other heavy objects shall, if considered necessary by Landlord, stand on supports of such thickness as is necessary to properly distribute the weight, and Tenant shall be solely responsible for the cost of installing all supports. Landlord will not be responsible for loss of or damage to any such safe or property in any case. Any damage to any part of the Project, its contents, occupants or visitors by moving or maintaining any such safe or other property shall be the sole responsibility and expense of Tenant.

6. The requirements of Tenant will be attended to only upon application at the management office for the Project or at such office location designated by Landlord. Tenant shall not ask employees of Landlord to do anything outside their regular duties without special authorization from Landlord.

7. Tenant shall not disturb, solicit, or canvass any occupant of the Project and shall cooperate with Landlord and its agents to prevent the same. Tenant, its employees and agents shall not loiter in or on the entrances, corridors, sidewalks,

lobbies, halls, stairways, elevators, or any Common Areas for the purpose of smoking tobacco products or for any other purpose, nor in any way obstruct such areas, and shall use them only as a means of ingress and egress for the Premises. Smoking shall not be permitted in the Common Areas.

8. The toilet rooms, urinals and wash bowls shall not be used for any purpose other than that for which they were constructed, and no foreign substance of any kind whatsoever shall be thrown therein. The expense of any breakage, stoppage or damage resulting from the violation of this rule shall be borne by the tenant who, or whose employees or agents, shall have caused it.

9. Except for vending machines intended for the sole use of Tenant's employees and invitees, no vending machine or machines other than fractional horsepower office machines shall be installed, maintained or operated upon the Premises without the written consent of Landlord. All vendors or other persons visiting the Premises shall be subject to the reasonable control of Landlord. Tenant shall not permit its vendors or other persons visiting the Premises to solicit other tenants of the Project.

10. Tenant shall not use or keep in or on the Premises or the Project any kerosene, gasoline or other inflammable or combustible fluid or material, except as is typically found in a medical office . Tenant shall not bring into or keep within the Premises or the Project any animals (except service animals for the disabled), birds, bicycles or other vehicles.

11. Tenant shall not use, keep or permit to be used or kept, any foul or noxious gas or substance in or on the Premises, or permit or allow the Premises to be occupied or used in a manner offensive or objectionable to Landlord or other occupants of the Project by reason of noise, odors, or vibrations, or to otherwise interfere in any way with the use of the Project by other tenants.

12. No cooking shall be done or permitted on the Premises, nor shall the Premises be used for the storage of merchandise, for loading or for any improper, objectionable or immoral purposes. Notwithstanding the foregoing, Underwriters' Laboratory approved equipment and microwave ovens may be used in the Premises for heating food and brewing coffee, tea, hot chocolate and similar beverages for employees and visitors of Tenant, provided that such use is in accordance with all applicable federal, state and city laws, codes, ordinances, rules and regulations; and provided further that such cooking does not result in odors escaping from the Premises.

13. Landlord shall have the right to approve where and how telephone wires are to be introduced to the Premises. No boring or cutting for wires shall be allowed without the consent of Landlord. The location of telephone call boxes and other office equipment affixed to the Premises shall be subject to the approval of Landlord. Tenant shall not mark, drive nails or screws, or drill into the partitions, woodwork or plaster contained in the Premises or in any way deface the Premises or any part thereof without Landlord's prior written consent. Tenant shall not install any radio or television antenna, satellite dish, loudspeaker or other device on the roof or exterior walls of the Project. Tenant shall not interfere with broadcasting or reception from or in the Project or elsewhere.

14. Landlord reserves the right to exclude or expel from the Project any person who, in the judgment of Landlord, is intoxicated or under the influence of liquor or drugs, or who shall in any manner do any act in violation of any of these Rules and Regulations.

15. Tenant shall not waste electricity, water or air conditioning and agrees to cooperate fully with Landlord to ensure the most effective operation of the Project's heating and air conditioning system, and shall refrain from attempting to adjust any controls. Tenant shall not without the prior written consent of Landlord use any method of heating or air conditioning other than that supplied by Landlord. Tenant shall not use electric fans or space heaters in the Premises.

16. Tenant shall store all its trash and garbage within the interior of the Premises. No material shall be placed in the trash boxes or receptacles if such material is of such nature that it may not be disposed of in the ordinary and customary manner of removing and disposing of trash in the vicinity of the Project without violation of any law or ordinance governing such disposal. All trash, garbage and refuse disposal shall be made only through entry-ways and elevators provided for such purposes at such times as Landlord shall designate.

17. Tenant shall comply with all safety, fire protection and evacuation procedures and regulations  
Landlord or any governmental agency.

d by  
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18. No awnings or other projection shall be attached to the outside walls or windows of the Project by Tenant. No curtains, blinds, shades or screens shall be attached to or hung in any window or door of the Premises without the prior written consent of Landlord. Landlord shall have the right to require Tenant to use Landlord's standard curtains or window coverings. Tenant shall not place any signs in the windows of the Premises or the Project. All electrical ceiling fixtures hung in the Premises must be fluorescent and/or of a quality, type, design and bulb color approved by Landlord. Tenant shall abide by Landlord's regulations concerning the opening and closing of window coverings which are attached to the windows in the Premises. The skylights, windows, and doors that reflect or admit light and air into the halls, passageways or other public places in the Project shall not be covered or obstructed by Tenant, nor shall any bottles, parcels or other articles be placed on the windowsills.

19. Tenant shall not employ any person or persons other than the janitor of Landlord for the purpose of cleaning the Premises unless otherwise agreed to in writing by Landlord. Except with the prior written consent of Landlord, no person or persons other than those approved by Landlord shall be permitted to enter the Project for the purpose of cleaning same. Landlord shall in no way be responsible to Tenant for any loss of property on the Premises, however occurring, or for any damage done to the effects of Tenant or any of its employees or other persons by the janitor of Landlord. Landlord shall not be obligated to notify Tenant of the times at which the janitorial staff will enter the Premises, and Tenant hereby authorizes the janitorial staff to enter the Premises at any time, without notice. Janitor service shall include ordinary dusting and cleaning by the janitor assigned to such work and shall not include cleaning of carpets or rugs, except normal vacuuming, or moving of furniture and other special services. Window cleaning shall be done only by Landlord at reasonable intervals and as Landlord deems necessary.

20. Tenant acknowledges that the local fire department has previously required Landlord to participate in a fire and emergency preparedness program or may require Landlord and/or Tenant to participate in such a program in the future. Tenant agrees to take all actions necessary to comply with the requirements of such a program including, but not limited to, designating certain employees as "fire wardens" and requiring them to attend any necessary classes and meetings and to perform any required functions.

21. Tenant and its employees shall comply with all federal, state and local recycling and/or resource conservation laws and shall take all actions requested by Landlord in order to comply with such laws. Tenant and its employees shall participate in any recycling or resource conservation program implemented by Landlord, at Tenant's sole expense.

#### PARKING RULES

1. Parking areas shall be used only for parking by vehicles no longer than full size, passenger automobiles. Tenant and its employees shall park automobiles within the lines of the parking spaces.

2. Tenant shall not permit or allow any vehicles that belong to or are controlled by Tenant or Tenant's employees, suppliers, shippers, customers, or invitees to be loaded, unloaded, or parked in areas other than those designated by Landlord for such activities. Users of the parking area will obey all posted signs and park only in the areas designated for vehicle parking.

3. Parking stickers, parking cards and other identification devices shall be the property of Landlord and shall be returned to Landlord by the holder thereof upon termination of the holder's parking privileges. Landlord shall not be obligated to return the deposit unless and until the parking card or other device is returned to Landlord. Tenant will pay such replacement charges as is reasonably established by Landlord for the loss of such devices. Loss or theft of parking identification stickers or devices from automobiles must be reported to the parking operator immediately. Any parking identification stickers or devices reported lost or stolen found on any unauthorized car will be confiscated and the illegal holder will be subject to prosecution.

4. Landlord reserves the right to relocate all or a part of parking spaces within the parking area, and to allocate them between compact and standard size and tandem spaces, as long as the same complies with applicable laws, ordinances and regulations.

5. Unless otherwise instructed, every person using the parking area is required to park and lock his own vehicle. Landlord will not be responsible for any damage to vehicles, injury to persons or loss of property, all of which risks are assumed by the party using the parking area.

6. Validation of visitor parking, if established, will be permissible only by such method or methods as Landlord may establish at rates determined by Landlord, in Landlord's sole discretion. Only persons visiting Tenant at the Premises shall be permitted by Tenant to use the Project's visitor parking facilities.

7. The maintenance, washing, waxing or cleaning of vehicles in the parking structure or Common Areas is prohibited.

8. Tenant shall be responsible for seeing that all of its employees, agents and invitees comply with the applicable parking rules, regulations, laws and agreements. Parking area managers or attendants, if any, are not authorized to make or allow any exceptions to these Parking Rules and Regulations. Landlord reserves the right to terminate parking rights for any person or entity that willfully refuses to comply with these rules and regulations.

9. Every driver is required to park his own car. Tenant agrees that all responsibility for damage to cars or the theft of or from cars is assumed by the driver, and further agrees that Tenant will hold Landlord harmless for any such damages or theft.

10. No vehicles shall be parked in the parking garage overnight. The parking garage shall only be used for daily parking and no vehicle or other property shall be stored in a parking space.

11. Any vehicle parked by Tenant, its employees, contractors or visitors in a reserved parking space or in any area of the parking area that is not designated for the parking of such a vehicle may, at Landlord's option, and without notice or demand, be towed away by any towing company selected by Landlord, and the cost of such towing shall be paid for by Tenant and/or the driver of said vehicle.

12. At Landlord's request, Tenant shall provide Landlord with a list which includes the name of each person using the parking facilities based on Tenant's parking rights under this Lease and the license plate number of the vehicle being used by that person.

Subject to the terms of the Lease, Landlord reserves the right at any time to change or rescind any one or more of these Rules and Regulations, or to make such other and further reasonable Rules and Regulations as in Landlord's judgment may from time to time be necessary for the management, safety, care and cleanliness of the Project, and for the preservation of good order therein, as well as for the convenience of other occupants and tenants therein. Landlord may waive any one or more of these Rules and Regulations for the benefit of any particular tenant, but no such waiver by Landlord shall be construed as a waiver of such Rules and Regulations in favor of any other tenant, nor prevent Landlord from thereafter enforcing any such Rules or Regulations against any or all tenants of the Project. Tenant shall be deemed to have read these Rules and Regulations and to have agreed to abide by them as a condition of its occupancy of the Premises.

**EXHIBIT "D"**

**FORM OF TENANT ESTOPPEL CERTIFICATE**

The undersigned is the Tenant under the Lease (defined below) between Interra-Sky 4801 Woodway, a Texas Limited Liability Company, as Landlord, and the undersigned as Tenant, for the Premises in the Office Building located at 4801 Woodway Drive, Houston, Texas 77057 and commonly known as 4801 Woodway, and hereby certifies, to the best of the actual knowledge of \_\_\_\_\_, as follows:

1. The Lease consists of the original Lease Agreement dated as of \_\_\_\_\_ between Tenant and Landlord [*s predecessor-in-interest*] and the following amendments or modifications thereto (if none, please state "none"):

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The documents listed above are herein collectively referred to as the "Lease" and represent the entire agreement between the parties with respect to the Premises. All capitalized terms used herein but not defined shall be given the meaning assigned to them in the Lease.

2. The Lease is in full force and effect and has not been modified, supplemented or amended in any way except as provided in Section 1 above.

3. The Term commenced on \_\_\_\_\_, 20\_\_\_\_ and the Term expires, excluding any renewal options, on \_\_\_\_\_, 20\_\_\_\_, and Tenant has no option to purchase all or any part of the Premises or the Building or, except as expressly set forth in the Lease, any option to terminate or cancel the Lease.

4. Tenant currently occupies the Premises described in the Lease and Tenant has not transferred, assigned, or sublet any portion of the Premises nor entered into any license or concession agreements with respect thereto except as follows (if none, please state "none"):

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5. All monthly installments of Base Rent, all Additional Rent and all monthly installments of estimated Additional Rent have been paid when due through \_\_\_\_\_. The current monthly installments of Base Rent and Additional Rent are \_\_\_\_\_.

6. All conditions of the Lease to be performed by Landlord necessary to the enforceability of the Lease have been satisfied and Landlord is not in default thereunder. In addition, Tenant has not delivered any notice to Landlord regarding a default by Landlord thereunder.

7. As of the date hereof, there are no existing defenses or offsets, or, to the undersigned's knowledge, claims or any basis for a claim, that the undersigned has against Landlord and no event has occurred and no condition exists, which, with the giving of notice or the passage of time, or both, will constitute a default under the Lease.

8. No rental has been paid more than 30 days in advance and no security deposit has been delivered to Landlord except as provided in the Lease.

9. Tenant is a duly formed and existing entity qualified to do business in the state in which the Premises are located and that Tenant has full right and authority to execute and deliver this Estoppel Certificate and that each person signing on behalf of Tenant is authorized to do so.

10. There are no actions pending against Tenant under any bankruptcy or similar laws of the United States or any state.

11. Other than in compliance with all applicable laws and incidental to the ordinary course of the use of the Premises, the undersigned has not used or stored any Hazardous Substances in the Premises.

12. All tenant improvement work to be performed by Landlord under the Lease has been completed in accordance with the Lease and has been accepted by the undersigned and all reimbursements and allowances due to the undersigned under the Lease in connection with any tenant improvement work have been paid in full.

Tenant acknowledges that this Estoppel Certificate may be delivered to Landlord, Landlord's Mortgagee or to a prospective mortgagee or prospective purchaser, and their respective successors and assigns, and acknowledges that Landlord, Landlord's Mortgagee and/or such prospective mortgagee or prospective purchaser will be relying upon the statements contained herein in disbursing loan advances or making a new loan or acquiring the property of which the Premises are a part and that receipt by it of this certificate is a condition of disbursing loan advances or making such loan or acquiring such property.

**EXHIBIT "E"**

**WORK LETTER AGREEMENT**

THIS AGREEMENT made as of the day of \_\_\_\_\_ day of \_\_\_\_\_, 2021, between Interra-Sky 4801 Woodway, LLC, a Texas limited liability company, ("Landlord") and CHCA Woman's Hospital, L.P., a Delaware limited partnership ("Tenant").

Reference is made to the lease agreement dated \_\_\_\_\_, 2021 (the "Lease") for premises known as Suite(s) 250-E (the "Premises"), located in the building known as 4801 Woodway Drive, Houston, Texas (the "Building").

**I. Landlord Work.** Landlord agrees to install and construct in the Premises, at Landlord's sole cost and expense, but subject to Tenant's Contribution (as defined in Section VI below), building standard finish improvements (except as otherwise specified in the Plans) (the "Landlord Work") pursuant to a scope of work, plans and/or specifications (the "Plans") based on the Pricing Set dated September 18, 2020 from Harry Gendel Architects ("Pricing Set") attached hereto as Exhibit "E-1". The Landlord Work shall include only: (i) all construction and installation as set forth on the Pricing Set; (ii) all architectural and engineering services rendered in connection with the preparation of the Plans and construction drawings related thereto and the costs and expenses of obtaining all necessary building permits, the certificate of occupancy, and other governmental approvals; and (iii) data and cabling for the Premises. Landlord Work expressly excludes non-Building standard fixtures, movable trade fixtures, equipment, or furnishings.

**II. Plans.** Landlord shall deliver to Tenant, following the Effective Date, its proposal for the Plans for the Landlord Work. Landlord will use commercially reasonable efforts to deliver Plans within thirty (30) days of the Effective Date. Tenant shall have five (5) business days to review such proposal. If Tenant disapproves of such proposal, then Landlord shall prepare and submit to Tenant a revised proposal for the Plans and such process shall repeat itself until the Plans are approved by both parties. In the event that the Lease is in full force and effect but Landlord and Tenant have not agreed upon the Plans for the Landlord Work within thirty (30) days after Landlord's delivery of its initial proposal, then Landlord or Tenant may cancel and terminate the Lease by notice to the other party given at any time thereafter. Thereupon, Landlord shall promptly return to Tenant any prepaid rent and/or security deposit paid by Tenant, and Landlord and Tenant shall each respectively be released from all further liability under the Lease or otherwise, irrespective of what costs or expenses either of such parties shall have incurred prior to any such cancellation and termination.

**III. Completion.** The term "Completion Date" shall mean the date on which the Landlord Work has been substantially completed, as evidenced by the issuance in good faith of a certificate of substantial completion by Landlord's architect or general contractor, subject to completion of a punch list as set forth below. If the Completion Date has not occurred within one hundred twenty (120) days after the approval of the Plans by both parties, Tenant shall be entitled to one (1) day of abated rent for each day Landlord is delayed beyond such 120-day period; provided, however, that Tenant shall not receive any abated rent should the delays be Force Majeure Delays. If the Completion Date has not occurred within one hundred eighty (180) days after the approval of the Plans by both parties, Tenant shall be entitled to three (3) days of abated rent for each day Landlord is delayed beyond such 180-day period; provided, however, that Tenant shall not receive any abated rent should the delays be Force Majeure Delays.

**IV. Punch List.** Within five (5) days of the Completion Date, Tenant may request that the parties create a "punch list." Tenant's request for a punch list shall not change, modify, or extend the Completion Date. Within five (5) days after such request, Landlord's representative and Tenant's representative will conduct a walk-through of the Premises and identify punch list items that are necessary for final completion of the Work, such as touch-up work and minor repairs. Both Landlord's representative and Tenant's representative will act reasonably in creating a punch list. Landlord will use reasonable efforts to timely complete all punch list items after the parties agree on the punch list.

**V. Tenant's Contribution.** Within thirty (30) days after the Completion Date and receipt of an itemized invoice from Landlord, Tenant shall pay Landlord the amount of \$366,320 as partial reimbursement for the cost of the Landlord Work ("Tenant's Contribution").

**VI. Warranty.** Landlord warrants to Tenant that (i) the Landlord Work will be constructed in accordance with the Plans if all materials and equipment used will be new less otherwise specified (ii) the Landlord Work will be of good quality, free from material faults and defects, and (iv) the Landlord Work shall be fully compliant with all applicable codes and regulations.

and land use laws, codes and regulations. Without limiting the generality of the foregoing, if within one (1) year after the Completion Date, the Landlord Work or any part or element of either is found to be defective or not in accordance with the Plans, Landlord shall correct the same within thirty (30) days after receipt of written notice from Tenant to do so or a longer reasonable period if such correction cannot reasonably be completed within a thirty (30) day period. Unless such condition is specifically referred to and accepted in a written instrument delivered to Landlord, acceptance by Tenant of the Landlord pursuant to the terms of this Agreement or the Lease shall not be deemed to be written acceptance of any such condition.

**VII. Waiver. EXCEPT TO THE EXTENT EXPRESSLY SET FORTH HEREIN, TENANT ACKNOWLEDGES THAT LANDLORD HAS MADE AND WILL MAKE NO WARRANTIES TO TENANT AS TO THE QUALITY OF CONSTRUCTION OF THE LANDLORD WORK OR OF THE CONDITION OF THE PREMISES UPON COMPLETION THEREOF, EITHER EXPRESS OR IMPLIED, AND THAT LANDLORD AND TENANT DISCLAIM ANY IMPLIED WARRANTY THAT THE PREMISES ARE OR WILL BE SUITABLE FOR TENANT'S INTENDED USE THEREOF.**

**VIII. Work Performed by Tenant.** Landlord, at Landlord's sole and absolute discretion, may permit Tenant and Tenant's agents and contractors to enter the Premises prior to completion of the Landlord's Work in order to make the Premises ready for Tenant's use and occupancy. If Landlord permits such entry prior to completion of the Work, then such permission is conditioned upon Tenant and Tenant's agents, contractors, workmen, mechanics, suppliers and invitees working in harmony and not interfering with Landlord and Landlord's contractors in doing the Landlord's Work or with other tenants and occupants of the Building. If at any time such entity shall cause or threaten to cause such disharmony or interference, Landlord shall have the right to withdraw such permission upon twenty-four (24) hours oral or written notice to Tenant. Tenant agrees that any such entry into the Premises shall be deemed to be under all of the terms, covenants, conditions and provisions of the Lease (including, without limitation, all insurance requirements), except as to the covenant to pay Rent thereunder, and further agrees that Landlord shall not be liable in any way for any injury, loss or damage which may occur to any items of work constructed by Tenant or to other property of Tenant that may be placed in the Premises prior to completion of the Landlord's Work, the same being at Tenant's sole risk.

**IX. Incorporation Into Lease.** THE PARTIES AGREE THAT THE PROVISIONS OF THIS WORK LETTER AGREEMENT ARE HEREBY INCORPORATED BY THIS REFERENCE INTO THE LEASE FULLY AS THOUGH SET FORTH THEREIN. In the event of any express inconsistencies between the Lease and this Work Letter Agreement, the latter shall govern and control.



**EXHIBIT “E-1”**

**PRICING SET**

**EXHIBIT "F"**

**INTENTIONALLY OMITTED**

**EXHIBIT "G"**

**OPTION TO EXTEND**

Provided no default exists and Tenant is occupying the entire Premises at the time of such election, Tenant shall have the Option to renew this Lease for one (1) additional period of sixty (60) months ("Extension Term") by delivering written notice of Tenant's interest to renew thereof to Landlord not earlier than twelve (12) months nor later than nine (9) months before the expiration of the Initial Term.

The Base Rent payable for each year during the Extension Term shall be the Fair Market Rental Rate, as follows.

Within thirty (30) days after Landlord's receipt of the Extension Notice, Landlord shall notify Tenant in writing of Landlord's good faith determination of the Fair Market Rental Rate for the applicable Extension Term (the "Rental Notice").

In any event that Landlord and Tenant are unable to agree on Fair Market Rental Rate within ninety (90) days after Landlord provides Tenant with its written evaluation of Fair Market Rental Rate, then Tenant may, at its election, (i) continue negotiating with Landlord for an additional thirty (30) days; or (iii) revoke its election to renew by giving written notice to Landlord. Unless evidenced by a written agreement signed by Tenant, in no event will Tenant be deemed to have agreed with Landlord's determination of the Fair Market Rental Rate.

For purposes of this Lease, "Fair Market Rental Rate" shall mean the annual amount per square foot of Net Rentable Area that a willing tenant would pay and a willing landlord would accept in arm's length, bona fide negotiations for office space of comparable size and quality to the Premises to be executed at the time of determination and to commence at the beginning of the new term based upon comparable lease transactions made in the Building and in other similarly classed office Buildings in Houston, Texas within the previous one (1) year period taking into consideration all relevant factors, including, but not limited to: (i) location, quality and age of the building; (ii) use and size of the space; (iii) location and floor level of space; (iv) extent of leasehold improvement allowances provided; (v) amount of any abatement of rental or other concessions; (vi) creditworthiness of tenant; (vii) parking charges; (viii) any other relevant terms or conditions.

During the Extension Term, in addition to the payment of Base Rent, Tenant shall remain obligated to pay Additional Rent and all other charges as provided in the Lease.

If Tenant timely exercises the applicable renewal option, then, on or before the commencement date of the Extension Term at issue, Landlord and Tenant shall execute an amendment to this Lease extending the Lease Term on the same terms provided in this Lease, except as follows:

(a) The monthly Base Rent shall be adjusted to equal one-twelfth of the product of (A) the Annual Base Rent set forth above for such Extension Term multiplied by (B) the then RSF of the Leased Premises; and

(b) Tenant shall have no further extension option except as provided above unless expressly granted by Landlord in writing.

(c) Landlord shall not be required to make any alterations to the Leased Premises, and Landlord shall not provide to Tenant any allowances (e.g., moving allowance, construction allowance, and the like) or other tenant inducements; provided however that Landlord's election not offer any such inducements to Tenant may be used as a factor in the determination of the Fair Market Rental Rate for the Leased Premises.

Tenant's renewal rights under this Exhibit shall terminate if (1) this Lease or Tenant's right to possession of the Leased Premises is terminated, or (2) Tenant fails to timely exercise its option under this Exhibit, time being of the essence with respect to Tenant's exercise thereof.

**EXHIBIT "H"**

**RIGHT OF FIRST REFUSAL**

As used herein, the "ROFR Space" shall mean any suite on the same floor that is adjacent to the Premises. Landlord hereby grants Tenant a continuing right of first refusal to lease the ROFR Space on the terms and conditions set forth in this Exhibit H, provided Tenant is not in default hereunder (the "Right of First Refusal").

On any offer Landlord receives to lease all or any portion of the ROFR Space which Landlord desires to accept (an "Offer"), Landlord agrees to and shall provide Tenant with written notice (an "Offer Notice"). The Offer Notice shall accurately (a) describe the terms and conditions of the Offer (including the rental rate per square foot of rentable area and any fixed rent increases therein, the length of the term, and all other material economic terms), (b) identify the portion of the ROFR Space that is the subject of the Offer, and (c) include floor plans showing same. Tenant shall have ten (10) business days (the "Review Period") after the receipt of an Offer Notice during which Tenant may, but shall not be obligated to, elect to exercise the Right of First Refusal by providing Landlord with written notice of its election to exercise the Right of First Refusal (the "Acceptance Notice") on the same terms and conditions set forth in the Offer.

If Tenant timely exercises the Right of First Refusal, then Landlord and Tenant shall execute and deliver an amendment to the Lease confirming the same in a form reasonably satisfactory to both parties, subject to the foregoing conditions and provided further that Tenant shall be required to lease the ROFR Space for the same length of time as set forth in the Offer Notice (and if there are less than three (3) years remaining on term of this Lease) Tenant shall also be required to extend this Lease for the current Premises to match the length of time set forth in the Offer Notice). Tenant's failure to timely deliver an Acceptance Notice to Landlord shall mean that Tenant has elected to not exercise the Right of First Refusal in this Exhibit H. This Right of First Refusal shall apply only with respect to the entire ROFR Space set forth in Landlord's ROFR Notice, and may not be exercised with respect to only a portion thereof.