

# **MARIAN HANCOCK BUILDING**

# **OFFICE SPACE LEASE**

LANDLORD: PMB SANTA MARIA 116 S. PALISADE LLC

TENANT: COUNTY OF SANTA BARBARA

SUITE #: 102 & 104



# MARIAN HANCOCK BUILDING

## SUMMARY OF BASIC LEASE INFORMATION

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The undersigned agree to the following terms of this Summary of Basic Lease Information (the "Summary"). This Summary is incorporated into the attached Office Space Lease (this Summary and the Office Space Lease to be known collectively as the "Lease") that pertains to the Building located at the address listed in Summary Section 1. Each reference in the Office Space Lease to any term of this Summary shall have the meaning set forth in this Summary for such term. Any capitalized terms used herein and not otherwise defined herein shall have the meaning set forth in the Office Space Lease.

1. The **Building Address** is: 116 South Palisade Drive  
Santa Maria, CA 93454
2. The **Project** is: Marian Hancock Building
3. The **Hospital** is: Marian Medical Center
4. The **Effective Date** of this Lease is: \_\_\_\_\_, 2008
5. **Tenant** is: County of Santa Barbara
6. **Guarantor**: Not Applicable
7. **Tenant's Notice address** is: 116 South Palisade Drive  
Suite 102 & 104  
Santa Maria, CA 93454
8. **Tenant's Premises address** (and address for notices) is: 116 South Palisade Drive  
Suite 102 & 104  
Santa Maria, CA 93454
9. **Landlord** is: PMB Santa Maria 116 S. Palisade LLC
10. **Landlord's Notice address** is: 12348 High Bluff Drive, Suite 100  
San Diego, CA 92130
11. **Ground Lessor** is: Catholic Healthcare West *dba* Marian Medical Center
12. The **Usable Area (Approximate)** is: Not Applicable
13. The **Usable Area (Actual)** is: Suite 102: 1,626 Usable Square Feet  
Suite 104: 3,142 Usable Square Feet  
**Total: 4,768 Usable Square Feet**
14. The **Rentable/Usable Ratio** is: 1.19
15. The **Rentable Area (Approximate)** is: Not Applicable
16. The **Rentable Area (Actual)** is: Suite 102: 1,935 Rentable Square Feet  
Suite 104: 3,739 Rentable Square Feet  
**Total: 5,674 Rentable Square Feet**

17. The **Commencement Date** is: March 1, 2008
18. The **Adjusted Commencement Date** (if any) is: \_\_\_\_\_
19. The **Term** is: Five (5) years
20. The **Expiration Date** is: February 28, 2013
21. The **Base Rental Rate** (per rentable SF per month) is: 1.30 / RSF / Mo  
(Net of Operating Expenses)
22. The **Base Rent** (per month and year) is: \$ 7,376.20 / Mo  
\$88,514.40 / Yr
23. The **initial Estimated Operating Expenses**  
(per rentable SF per month and year) is: \$ 0.96 / RSF / Mo  
\$11.52 / RSF / Yr
24. The **Base Figure** is: 218.7 based upon BLS CPI Series  
CUURA421SA0 1982-84 = 100  
October 2007 Index for Los Angeles –  
Riverside – Orange County, CA
25. **Tenant's Percentage Share (Approximate):**  
(based on 31,025 total USF) 15.3%
26. The **Suite Design Completion Date** is: Not Applicable
27. The **Tenant Improvement Allowance** is: \$15.00 / USF
- Note: A three percent (3%) construction management fee will be added to the total cost of the Tenant Improvement Work and shall be considered a component of the Tenant Improvement Allowance.
28. The **Security Deposit** is: Not Applicable
29. The **Permitted Use** is: Medical office providing obstetrics,  
gynecology and related patient care  
services.
30. The **CPI Increase Limits** (per year) are: 4% minimum  
7% maximum
31. **Deferred Rent:** Landlord shall defer three (3) months of  
Base Rent and Operating Expenses until  
the end of the Term. If Tenant does not  
commit default under this Lease,  
commencing with Month 2 of the Initial  
Lease Term, the Deferred Rent shall be  
forgiven at the end of the Term.
32. **Brokers:** Tenant acknowledges that no broker is  
representing Tenant in the negotiation of  
this Lease and that no commission is due  
any Tenant representative in connection  
with these negotiations and lease.

**33. Contingency:**

Any Lease or offer to enter into a lease relating in any way to Tenant and/or this Preliminary Summary is expressly contingent on the satisfaction of the requirements of any applicable right of first refusal, including any held by Hospital and/or Catholic Healthcare West.

**34. Key Card System**

Tenant will provide and install a Tel-Tec Key Card System for the Premises. Tenant will provide Landlord with a key card that allows full access to Premises at all times.

**35. Confidentiality:**

The terms and conditions of this Lease are confidential and are specific to Tenant. Tenant shall not disclose this Lease or its provisions to anyone other than its agents. Any breach of confidentiality by Tenant or Tenant's agents will immediately nullify the terms offered in this Lease.

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↓ *Signatures on next page ...*

Landlord and Tenant agree to the terms of this Summary. If there is any conflict between any provision of this Summary and any specific clause of the Lease, the specific clause of this Summary shall prevail.

**"Landlord"**

PMB SANTA MARIA 116 S. PALISADE LLC,  
a Delaware limited liability company

By: PMB Acquisition #1 Partners LLC,  
a Delaware limited liability company,  
Sole Member

By: PMB Founders LLC,  
a California limited liability company,  
Administrative Member

By: Pacific Medical Buildings LLC  
a California limited liability company,  
Manager

By: PMB, Inc.,  
a California corporation,  
Manager

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

**"Tenant"**

COUNTY OF SANTA BARBARA

ATTEST:  
MICHAEL F. BROWN  
CLERK OF THE BOARD

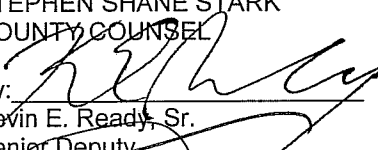
By: \_\_\_\_\_  
Chair, Board of Supervisors

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

Date: \_\_\_\_\_

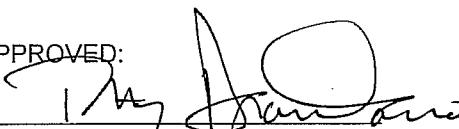
APPROVED AS TO FORM:  
STEPHEN SHANE STARK  
COUNTY COUNSEL

APPROVED AS TO FORM:  
ROBERT GEIS, C.P.A.  
AUDITOR-CONTROLLER

By:   
Kevin E. Ready, Sr.  
Senior Deputy

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

APPROVED:  
\_\_\_\_\_  
Ronn Carlentine, SR/WA  
Real Property Manager

APPROVED:  
  
Ray Aromatorio, ARM, AIC  
Risk Program Administrator

# MARIAN HANCOCK BUILDING OFFICE SPACE LEASE

THIS OFFICE SPACE LEASE ("Lease"), which includes the preceding Summary of Basic Lease Information (the "Summary") attached hereto is made as of the Effective Date shown in Summary Section 4, by "Landlord" identified in Summary Section 9 and "Tenant" identified in Summary Section 5. By signing this Lease, effective only when Landlord has signed it, Landlord and Tenant agree as set forth in this Lease.

## Article 1 BASIC LEASE TERMS

**1.1. Definitions.** In this Lease, the terms listed in the Summary and/or on **Exhibit A** shall have the meanings set forth therein.

**1.2. Demise.** Subject to the provisions of this Lease, Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, the Usable Area of the Premises as cross-hatched on the floor plan attached hereto as **Exhibit B** in the Building identified in Summary Section 1. The Building is located adjacent to the Hospital identified in Summary Section 3 as illustrated on the site plan attached hereto as **Exhibit C** on specific real property (the "Land") located in Santa Maria, California and leased from Ground Lessor identified in Summary Section 11. Tenant shall pay rent as provided herein, based on Tenant's Rentable Area of the Premises.

**1.3. Term.** Subject to all Lease terms and conditions, this Lease shall begin on the Commencement Date, subject to the provisions for adjustment of the Commencement Date, and shall continue in force for the Term shown in Summary Section 19, unless sooner terminated pursuant to the provisions of this Lease.

**1.3.1. Commencement.** The Term shall commence on the date Landlord has tendered possession of the Premises to Tenant with all work required to be done by Landlord as shall be provided in the Tenant Improvements Schedule, **Exhibit E**, substantially completed except for items of work and adjustment of equipment and fixtures which can be completed after occupancy has been taken without causing substantial interference with Tenant's use of the Premises. Tenant shall accept the Premises on notice from Landlord that the Premises have been substantially completed. In no event shall Landlord have any liability for delay or inability to deliver the Premises to Tenant. Landlord shall notify Tenant of the Commencement Date and insert the exact date thereof in Summary Section 17 when Landlord tenders possession of the Premises to Tenant. In no event shall the Commencement Date be delayed by Tenant's inability to use the Premises on tender by Landlord for any reason, including Tenant's inability to obtain and install furniture, furnishings, or equipment.

**1.3.2. Commencement Date Adjustment.** If, for any reason, the Premises should not be ready for Tenant's occupancy by the Commencement Date, Landlord shall adjust the Commencement Date as follows:

a. If Tenant has given written approval of the Final Suite Design on or before the Suite Design Completion Date, then the Commencement Date shall be revised to be the date of Substantial Completion of the Premises as evidenced by a Certificate of Occupancy; or,

b. If Tenant, or Tenant's agents or contractors, prevent or delay Landlord's completion of the Tenant Improvements including Tenant's delay, failure or refusal to: (1) approve the Final Suite Design drawings provided to Tenant by Landlord on or before the Suite Design Completion Date; (2) approve the Working Drawings within five (5) days of their submission by Landlord for Tenant's approval; or, (3) pay all sums due within five (5) days of notice by Landlord for costs of Tenant Improvements in excess of the Tenant Improvement Allowance as stipulated in Section 5.1.2 below; Landlord, in its sole discretion, shall determine and adjust the Commencement Date, insert the Adjusted Commencement Date in Summary Section 18 and notify Tenant of such change. The Adjusted Commencement Date shall then become the date when Landlord tenders possession of the Premises to Tenant.

c. The parties acknowledge that, until Substantial Completion, there cannot be reasonable certainty in determining or estimating the Commencement Date. Tenant waives any claim against Landlord and any contractor of Landlord (and employees or agents of either) for damage which may arise from any such postponement. This waiver, however, shall not extend to delays caused by gross neglect or willful misconduct on the Landlord's part.

d. If Landlord, due to its gross neglect or willful misconduct, is unable to deliver to Tenant possession of the Premises within twelve (12) months after the Commencement Date, Tenant may cancel this Lease by written notice of termination on such ground. Except for the return of any Security Deposit, neither party shall have any liability to the other by reason of such termination.

## Article 2 RENT

2.1. **Rent.** Tenant shall pay to Landlord throughout the Term as rental for the Premises the following sums:

2.1.1. **Base Rent.** Tenant shall pay the Base Rent, which shall be payable without any prior notice or demand and without any deduction or offset whatsoever, in monthly installments on the first day of each calendar month in advance, except that if the Commencement Date occurs other than on the first day of a calendar month, the Base Rent for the fraction of the month in which the Commencement Date falls shall be paid on the Commencement Date prorated on the basis of the actual number of days in that month. All rent shall be payable to Landlord at such place(s) as Landlord may designate in writing from time to time. All past due installments of Rent shall bear interest at the maximum lawful annual interest rate.

2.1.2. **Additional Rent.** In addition to paying the Base Rent specified in Section 2.1.1 above, Tenant shall pay as additional rent, Tenant's Percentage Share of the total Operating Expenses and Property Taxes paid or incurred by Landlord in such year and any other sums due to Landlord from Tenant under this Lease, all of which shall be collectively referred to as "**Additional Rent.**" The Base Rent and the Additional Rent are collectively referred to as "**Rent.**"

2.2. **Rent Redetermination.** The Base Rent shall be increased annually throughout the Term commencing on the initial Adjustment Date. On each Adjustment Date, the Base Rent shall increase to an amount determined in accordance with the following:

2.2.1. **Base Figure.** The Base Figure is specified in Summary Section 24.

2.2.2. **Adjustment.** Each annual increase in the Base Rent shall be based on any increase in the Index for the calendar month in which the Adjustment Date falls as compared to the Base Figure and shall be expressed as a percentage. For example, if the Base Figure is 110 and the Index for the month in which the Adjustment Date falls is 114.4, the percentage shall be  $114.4/110 = 1.04$  or 104 percent. That percentage shall be multiplied by the Base Rent in effect on the day before the Adjustment Date, and such increased Base Rent shall remain in effect until the next succeeding Adjustment Date. If the Index is not available for the month in which the Adjustment Date falls, Landlord shall, in its reasonable discretion, estimate the Index for that month based on the prior three (3) months; when the Index for that month (or, if not available for that month, for the period in which that month falls) later becomes available, Landlord shall revise the Adjustment, and any money due to Landlord or credit due Tenant shall be paid or applied within ten (10) days after written notice thereof from Landlord.

2.2.3. **Index.** The Index for the calendar month in which the Adjustment Date falls shall be as reported in the U.S. Department of Labor's newest publication answering the definition of the Index. If it is calculated other than from a base year 1982-84=100 used for the Base Figure above, the Base Figure used for calculating the adjustment percentage shall first be converted under a formula supplied by the Department. If the Index shall no longer be published, Landlord shall substitute another generally recognized as authoritative.

2.3. **Tenant's Share of Operating Expenses and Property Taxes.** Payment of Additional Rent shall be made in accordance with the following:

2.3.1. **Estimate.** Before the Commencement Date and during December of each subsequent calendar year, or as soon thereafter as practical, Landlord shall give Tenant notice of its

estimate of any amounts payable under Section 2.1.2 above for the ensuing calendar year. On or before the first day of each month during the ensuing calendar year, Tenant shall pay to Landlord one-twelfth (1/12<sup>th</sup>) of such estimated amounts, provided that if such notice is not given in December, Tenant shall continue to pay on the basis of the prior year's estimate until the month after the notice is given. If at any time it appears to Landlord that the amounts payable under Section 2.1.2 above for the current calendar year will vary from its estimate by more than five percent (5%), Landlord shall, by notice to Tenant, revise its estimate for such year, and subsequent payments by Tenant for such year shall be based on such revised estimate.

**2.3.2. Statement.** Within ninety (90) days after the end of each calendar year or as soon after such 90-day period as practicable, Landlord shall prepare and deliver to Tenant an actualized statement of Operating Expenses and Property Taxes for such calendar year. This statement shall be final and binding on Landlord and Tenant. Landlord shall also then deliver to Tenant a statement of the adjustments to be made under Section 2.1.2 above based on the statement. If Landlord's statement shows that Tenant owes an amount less than the estimated payments for such calendar year previously made by Tenant, Landlord shall refund such excess to Tenant or credit the excess to the next estimated payments due from Tenant, at Landlord's option; if such statement shows that Tenant owes an amount more than the estimated payments for such calendar year previously made by Tenant, Tenant shall pay the deficiency to Landlord within ten (10) days after delivery of the statement.

**2.3.3. Proration.** If this Lease terminates on a day other than the last day of a calendar year, the amount of the adjustment to be made pursuant to Section 2.1.2 above that is applicable to the calendar year in which such termination shall occur shall be prorated on the basis which the number of days from the commencement of such calendar year to and including such termination date bears to 365. The termination or expiration of this Lease shall not affect the obligations of Landlord and Tenant pursuant to Section 2.1.2 above to be performed after such termination.

**2.3.4. Records.** At Tenant's expense and during reasonable times so as not to interfere with Landlord's operation and maintenance of the Land and the Building, Tenant shall have the right, on reasonable written notice and during Landlord's regular business hours, to examine Landlord's books and records supporting Landlord's calculation of Tenant's Percentage Share of Operating Expenses and Property Taxes.

**2.3.5. Disputes.** Provided Tenant shall have previously paid Landlord any unpaid amount required by Landlord's statement of Tenant's Percentage Share of Operating Expenses and Property Taxes, within ten (10) days of Landlord's service on Tenant of this statement, Tenant may contest the accuracy of this statement by requesting an audit of this statement by a certified public accountant mutually acceptable to Landlord and Tenant. Landlord and Tenant shall select this accountant within five (5) days of Tenant's demand for audit. The accountant shall not be compensated on a contingency basis. The audit's conclusions shall be final and binding on the parties. Tenant shall pay all audit costs and fees unless it discloses that the statement exceeded Tenant's actual Percentage Share of Operating Expenses and Property Taxes by more than ten percent (10%) for the year in question, in which case Landlord alone shall bear the audit costs and fees.

**2.4. Taxes and Impositions Payable by Tenant.** In addition to the Base Rent and other charges to be paid by Tenant hereunder, Tenant shall pay or reimburse Landlord for Tenant's Percentage Share of the Property Taxes.

**2.5. Security Deposit.** Tenant has deposited with Landlord the sum shown in Summary Section 28 as security for the full performance of Tenant's obligations to Landlord under this Lease.

**2.5.1.** If Tenant defaults with respect to any covenant contained herein, Landlord may use or retain all or part of the Security Deposit for payment of any Rent or other sum in default, any amount that Landlord may spend or become obligated to spend in exercising Landlord's rights under this Lease, or any expense, loss, or damage that Landlord may spend or become obligated to spend by reason of Tenant's default. Tenant waives the provisions of California Civil Code § 1950.7, or if the State is not California, then any similar law of the State, and all other provisions of law now in force or that become in force after the Effective Date, that provide that Landlord may claim from a security deposit only those sums reasonably necessary to remedy defaults in the payment of Rent, to repair damage caused by Tenant, or to clean the Premises. Landlord may, in addition, claim those sums reasonably necessary



to compensate Landlord for any other foreseeable or unforeseeable loss or damage caused by the act or omission of Tenant or any Tenant Party.

**2.5.2.** If any part of the Security Deposit is applied or used, Tenant shall, within thirty (30) days after written demand, deposit an additional amount with Landlord sufficient to restore the Security Deposit to the amount set forth in Summary Section 28; Tenant's failure to do so shall constitute a breach of this Lease.

**2.5.3.** If Tenant is not in default at the termination of this Lease, Landlord shall return the Security Deposit to Tenant within two (2) weeks after termination, less any amount required to restore the Premises to good condition and repair, including damage resulting from Tenant's removal of its trade fixtures or equipment, but excluding reasonable wear and tear and damage from casualty.

**2.5.4.** Landlord's obligation with respect to any Security Deposit is that of a debtor and not a trustee. Landlord may commingle this sum with rental receipts or use it otherwise, and no interest shall accrue on it.

**2.5.5.** In the event of the sale of the Building, Landlord or its agent shall pay Landlord's successor in interest the Security Deposit and give Tenant written notice of such transfer, including the successor's name and address. On such written notification, Tenant shall have no further claim against Landlord with respect to the Security Deposit and hereby waives all right against Landlord in that regard.

**2.5.6.** In the event of foreclosure by a Mortgagee, Landlord shall continue to be liable for any security deposit, and any such Mortgagee shall have no liability or responsibility therefor.

### **Article 3 Use**

**3.1. Primary Use.** Only Qualified Persons or Qualified Entities, or persons otherwise approved by Ground Lessor and Landlord, may lease or sublease space in the Building. Tenant shall use the Premises solely for professional medical office space and for no other purpose.

**3.2. Compliance with Laws.** Tenant shall not use, or permit any other person to use, the Premises for any purpose tending to injure the reputation thereof, or of Landlord, Ground Lessor, or Hospital, or for any illegal, improper or offensive use, or any use not in compliance with all applicable public laws, ordinances, restrictions or regulations now in force or which may hereafter be enacted or promulgated. At its sole cost and expense, Tenant shall promptly comply with all such governmental measures, other than the making of structural changes or changes to the Building's life safety system or repairs or upgrades to be performed by Landlord in accordance with Section 5.2 below. If any standard or regulation is now or hereafter imposed on Landlord or Tenant by a state, federal or local governmental body charged with the establishment, regulation and enforcement of occupational, health or safety standards for employers, employees, landlords or tenants, Tenant shall, at its sole cost and expense, comply promptly with such standards or regulations. The judgment of any court of competent jurisdiction or Tenant's admission in any judicial action, regardless whether Landlord is a party thereto, that Tenant has violated any said governmental measures, shall be conclusive thereof between Landlord and Tenant.

**3.3. Indemnity for Violation.** Tenant shall indemnify, defend and hold Landlord harmless from and against all liability, expense and loss resulting from Tenant's violation of the Ground Lease or this Lease, including any violation of any laws, ordinances and regulations applicable to the use and occupancy of the Premises, whether from negligence or willful act of Tenant or any person on the Premises by license or invitation of Tenant, or occupying under Tenant.

**3.4. Compliance with Ground Lease.** Tenant acknowledges it has received and reviewed the Ground Lease, which is incorporated by reference, and all its exhibits and related documents. This Lease is subject and subordinate to the Ground Lease and to all its provisions, exhibits, related documents, and amendments. Tenant shall comply with all provisions in the Ground Lease. Any breach or default by Tenant of any provision of the Ground Lease shall constitute a breach and default under this Lease. Without limiting the foregoing, (a) Tenant shall not allow all or part of the Premises to be used for the purpose of providing any services competitive with those offered at Hospital, including those uses listed on Exhibit C to the Ground Lease, which exhibit is reproduced and attached to this Lease as **Exhibit H**, for so long as such use restrictions are in effect under the Ground Lease, (b) Tenant shall not

allow all or part of the Premises to be used for the performance of any medical or surgical procedures, including abortion, euthanasia and in-vitro fertilization, which contravene Ground Lessor's healthcare policies as expressed in the Ethical and Religious Directives for Catholic Health Care Services (the "Directive"), attached to the Ground Lease as Exhibit G, which exhibit is reproduced and attached to this Lease as **Exhibit I**, as it may be later amended or modified from time to time, provided that any change in the Directive after the Execution Date of this Lease will not materially impact Tenant's use rights hereunder, and (c) Tenant shall not use or occupy or permit other persons to use or occupy, the Premises, or any part thereof, for any extra-hazardous purpose. Tenant acknowledges and agrees for the benefit of Ground Lessor and the owner or successor owner of the Hospital that (1) the harm that such entities would suffer in the event of a breach of the foregoing use restrictions would be irreparable and would be such that they would not have an adequate remedy at law, and (2) such entities will have the right to enforce such restrictions directly against Tenant by seeking specific performance and/or injunctive relief.

**3.5. Violations of Insurance Coverage.** Tenant shall comply with all reasonable requirements of the insurance underwriters. Tenant shall not occupy or use, or permit any portion of the Premises to be occupied or used, for any business or purpose which is unlawful, disreputable or extra-hazardous (on account of fire or other risks), or otherwise permit anything to be done which would in any way increase the rate of fire or liability or any other insurance coverage on the Building or its contents.

**3.6. Rules of Building.** Tenant shall comply with the written Rules and Regulations ("**Rules**") of the Building (as reasonably modified by Landlord from time to time) adopted for safety, care and cleanliness of the Premises and the Building, and for preservation of good order therein, including any parking located on the Land. The Rules shall be furnished by Landlord, and shall be thereafter observed by Tenant, its employees, invitees, agents and independent contractors. The initial Rules are attached hereto as **Exhibit F**.

**3.7. Nuisance.** Tenant shall conduct its business and control its agents, employees, invitees and visitors in a manner as not to create any nuisance, or interfere with, annoy or disturb any other tenant or Landlord.

**3.8. Common Areas and Parking Areas.** "**Common Areas**" means all areas, improvements, space and equipment in the Building provided by Landlord for the common or joint use and benefit of all tenants and their employees, agents, licensees and invitees, and not leased or held for lease to Tenant, including all entrances, exits, pedestrian walkways, walls, concourses, stairs, ramps, sidewalks, maintenance and utility rooms and closets, hallways, lobbies, elevators and their housing and rooms, common window areas, walls and ceilings in Common Areas, trash and rubbish areas, and public washrooms. Tenant shall be entitled to use, in common with the others entitled thereto, so long as Tenant is not in default under this Lease, the parking areas on the Land and the Common Areas as designated from time to time by Landlord, subject to this Lease, the Rules, and Sections 12.17 and 12.18 below. Landlord shall have the right to reasonably assign certain parking spaces on the Land, if any, to a specific tenant of the Building. Subject to Sections 12.17 and 12.18 below, reserved and public parking will be available to Tenant, other Space Tenants and their visitors at rates Landlord establishes from time to time. If the size or configuration of the parking areas or Common Areas is altered or diminished, Landlord shall not be liable to Tenant therefor, and Tenant shall not be entitled to any compensation or reduction in or abatement of Base Rent or other charges due hereunder. No such alteration or diminution shall be considered to constitute a constructive or actual eviction of Tenant. No alteration or diminution of the Common Areas shall be made that materially adversely affects Tenant's ingress or egress or the location of the Premises with respect to elevators, stairways and restrooms.

#### **Article 4 SERVICES**

**4.1. Services Furnished by Landlord.** All services furnished by Landlord are Building Operating Expenses. Landlord shall furnish the following to Tenant while Tenant occupies the Premises:

**4.1.1.** Hot and cold water at those points of supply provided for general use of other Building tenants; central heat and air conditioning at such temperatures, and in such amounts, considered by Landlord to be reasonable for comfortable occupancy during Normal Business Hours. "**Normal Business Hours**" for the Building initially shall be 7:00 a.m. to 7:00 p.m., Mondays through Fridays, and

7:00 a.m. to 1:00 p.m. on Saturdays, all exclusive of Holidays. Landlord shall adjust Normal Business Hours as necessary to meet the reasonable requirements of Building tenants in general. Service at times other than Normal Business Hours shall be furnished only as provided in Section 4.2 below.

**4.1.2.** Routine maintenance and electric lighting service for all public areas and special service areas of the Building in the manner and to the extent Landlord deems to be standard.

**4.1.3.** Non-exclusive passenger elevator service to the Premises during Normal Business Hours, with at least one elevator subject to call at all other times, as Landlord in its sole and absolute discretion determines to be necessary to meet traffic demands. Landlord, however, may suspend the use of the elevators at any time(s) to make such repairs or improvements as Landlord deems desirable, without liability to Tenant or anyone else for any interruption of elevator service, however caused.

**4.1.4.** Janitorial and the associated cleaning supplies will be provided on the janitorial service on a five (5) day per week basis at no extra charge; provided, if Tenant's floor coverings or other improvements are other than Building standard, Tenant shall pay the additional cleaning cost attributable thereto as Additional Rent on presentation of a statement therefor by Landlord. Any additional or specialized janitorial services (including periodic carpet cleaning) desired by Tenant shall be contracted for by Tenant, at Landlord's option, with Landlord's janitorial agent, and the cost and payment thereof shall be Tenant's sole responsibility.

**4.1.5.** Tenant shall pay for all Medical Waste disposal, which shall be provided by a licensed medical waste hauler and shall comply with all applicable laws, rules and regulations (including California Health and Safety Code §§ 117600 *et seq.*, if the State is California). Landlord reserves the right to pay for standard medical waste disposal charges for some or all Building tenants, as Landlord determines from time to time in its discretion.

**4.1.6.** Building standard electric current for lighting adequate for normal professional medical office use and for heating and air conditioning, and Building standard light bulbs and tubes in Building standard fixtures when required.

**4.1.7.** Electrical facilities to furnish sufficient power for operation of the Premises and all electrical equipment reasonably used therein in connection with Tenant's routine use of the Premises for medical office space. Landlord reserves the right to install sub-meters in locations designated by Landlord to measure electrical consumption within the Premises. If Tenant's consumption exceeds Building standard for sufficient power (as Landlord reasonably determines), Tenant shall pay Landlord such amounts as Additional Rent on account of the excess electricity consumption within the Premises caused by any equipment requiring special cooling or extra or after-hours cooling or power. The amount of Additional Rent will be based on the rate charged by the electric utility to Landlord for the excess consumption of electricity. To the extent Tenant separately pays for electricity charges, such charges shall not be included in Operating Expenses. In the absence of sub-metering by Landlord, the cost of electricity shall be included in Operating Expenses.

**4.2. Tenant to Pay for Additional Services.** Before Landlord provides any services beyond the scope of those listed in Section 4.1 above, Landlord and Tenant shall reach an agreement on the provision of, and payment by Tenant for, any such services. Tenant shall promptly pay all such additional costs on demand.

**4.3. Tenant Restrictions.** Tenant shall not:

**4.3.1.** Install or operate in the Premises any electrically operated equipment (other than low electrical consumption equipment normally used in modern professional medical offices), or any plumbing fixtures, without first obtaining Landlord's written consent. Landlord may condition such consent on Tenant's payment of Additional Rent as compensation for the additional consumption of water and/or electricity; or

**4.3.2.** Install any equipment of any kind or nature whatsoever which would or might necessitate any changes, replacements or additions to the water system, plumbing system, heating system, air conditioning system or the electrical system servicing the Premises, or any other portion of the Building, without Landlord's prior written consent. If such consent is granted, the entire cost of such

replacements, changes or additions shall be paid by Tenant plus the cost to repair any damage to the Building or Premises in connection therewith.

**4.4. Service Interruptions.** Landlord's failure to any extent to furnish the services described, or any cessation thereof, shall not: (a) render Landlord liable for damages to either person or property, (b) be construed as an eviction of Tenant, (c) work an abatement of rent, nor (d) relieve Tenant from fulfillment of any covenant. If any equipment or machinery breaks down, or for any cause ceases to function properly, Tenant shall have no claim for rebate of rent or damages on account of any interruption in service occasioned thereby or resulting therefrom. Nevertheless, Landlord shall use its reasonable best efforts to promptly repair same and to restore the service.

**4.5. Keys and Locks.** Landlord shall furnish Tenant with keys and locks for the corridor doors entering the Premises. All such keys shall remain Landlord's property. No additional locks shall be allowed on any door of the Premises without Landlord's permission, and Tenant shall not make, or permit to be made, any duplicate keys except those furnished by Landlord. On termination of this Lease, Tenant shall surrender to Landlord all keys to the Premises and give Landlord the combination locks for safes, safe cabinets and vault doors, if any, in the Premises. Tenant shall not place safes, safe cabinets or vaults in the Premises without Landlord's prior written consent.

**4.6. Graphics.** Landlord shall provide and install all letters or numerals on entrance doors to the Premises. All such letters and numerals shall be in Building standard graphics, and no others shall be used.

## Article 5

### IMPROVEMENTS, REPAIRS, ALTERATIONS AND CARE OF PREMISES

**5.1. Tenant Improvements.** Landlord shall construct the tenant improvements (the "**Tenant Improvements**") in accordance with the Tenant Improvements Schedule in **Exhibit E** hereto. After Tenant's approval of the Working Drawings and Final Prices, Landlord will partition and prepare the Premises in accordance therewith, except reasonable deviations in dimensions that may occur because of field conditions or other factors. Landlord, however, shall not be required to install any partitions or improvements that do not conform with the Building plans and specifications or which Landlord or its architect have not approved. As a condition precedent to Landlord's obligations to construct the Tenant Improvements in **Exhibit E**, Tenant shall first deposit with Landlord the amount by which the cost of the Tenant Improvements, as reasonably estimated by Landlord's contractor, exceeds the Tenant Improvement Allowance.

**5.1.1. Substitutions.** Landlord reserves the right to make substitutions of material of equivalent grade and quality if any specified material is not reasonably available and make changes necessitated by conditions met during the course of construction, provided Tenant's approval of any substantial change (and any increase of cost incident thereto) is first obtained, which approval shall not be unreasonably withheld so long as there will be general conformity with this Lease.

**5.1.2. Excess Tenant Improvements Above Allowance.** Tenant shall pay to Landlord all sums due for costs of Tenant Improvements in excess of the Tenant Improvement Allowance. Such excess shall be due after the time Tenant has signed and approved the schedule for construction of Tenant Improvements defined in **Exhibit E** and before the start of construction of the Tenant Improvements. Failure by Tenant to pay any sums described in this Section 5.1 above in full within ten (10) days after its receipt of an invoice therefor will constitute failure to pay Rent when due, giving rise to all remedies available to Landlord under this Lease and at law for nonpayment of Rent.

**5.1.3. Non-Scheduled Improvements.** If Tenant requires Landlord to make improvements not included in the **Exhibit E**, Tenant shall timely pay an amount equal to Landlord's actual cost, including associated architectural and engineering fees, if any, plus an additional charge of fifteen percent (15%) to cover overhead. Tenant shall also pay all ad valorem taxes and increased insurance premiums payable on account of any improvements for Tenant that are in addition to those items described in **Exhibit E**.

**5.1.4. Landlord's Property.** All improvements to the Premises made pursuant to this Section 5.1 above, whether made by Landlord or Tenant and whether included in the Tenant Improvement Allowance, shall at all times be Landlord's property. Such improvements shall not be trade

fixtures and shall not be removable by Tenant, notwithstanding Tenant's obligation to pay insurance premiums, ad valorem taxes or installation costs attributable thereto.

**5.1.5. Supervision Fee.** If Tenant performs or causes to be performed its own Tenant improvements, Tenant shall pay Landlord a supervision fee equal to fifteen percent (15%) of the cost of all such improvements, payable when Tenant approves or is deemed to approve the Working Drawings. This fee shall be deemed an additional element of Rent.

**5.2. Repairs by Landlord.** Unless otherwise expressly stated in this Lease, Landlord shall not be required to make any improvements or repairs of any kind or character on or to the Premises during the Term, except such repairs as Landlord deems necessary for normal maintenance operations, including structural repairs to the Building, and all repairs needed to the mechanical, electrical and plumbing systems.

**5.3. Repairs by Tenant.** Tenant, at its expense, shall repair any damage or injury to the Building, or any part of it, caused by Tenant or its agents, employees, invitees or visitors, and restore the Building to its condition before such injury or damage. Such repairs shall comply with all building and fire codes, the original Building plans and specifications and other applicable laws and regulations. If Tenant fails to make such repairs promptly, Landlord may, at its option, make such repairs, and Tenant shall pay Landlord, on demand, the cost thereof plus a charge of twenty-five percent (25%) to cover Landlord's overhead in making said repairs. Payment by Tenant to Landlord for applicable repairs requested or required of Landlord under this Section 5.3 shall be made as described in Section 5.1.2 above and be subject to the remedies described therein. Landlord, in its sole discretion, may disapprove any improvements or repairs to be made by Tenant in any way affecting any structural component of the Building. If any such damage or injury to the Premises that Tenant is required to repair hereunder is insured against, Tenant shall be entitled to the net insurance proceeds payable in connection therewith.

**5.4. Alterations, Additions, Improvements.** Except for work of a decorative nature, Tenant shall not make, or allow to be made, any alterations or physical additions to the Premises without first obtaining Landlord's written consent in each instance. Tenant shall not place any signs outside the Premises without Landlord's written consent and Ground Lessor's written consent, if required under the Ground Lease. Landlord shall not unreasonably withhold its consent. All alterations, physical additions or improvements, when made to the Premises by Tenant, shall at once become Landlord's property and shall be surrendered to Landlord on termination of this Lease for any reason. This provision shall not apply to Tenant's trade fixtures, movable equipment or furniture.

**5.5. Entry for Repairs and Inspection.** On reasonable notice, Tenant shall permit Landlord and Ground Lessor, and their authorized representatives, to enter any part of the Premises at reasonable hours to inspect, clean or make repairs, alterations or improvements, or to show the same to prospective purchasers or Mortgagees. Tenant shall not be entitled to any abatement or reduction of rent by reason thereof, nor shall this constitute an eviction of Tenant in whole or part. During the six (6) months before expiration of this Lease, Landlord may show the Premises to prospective tenants.

**5.6. Care of Premises.** Tenant, its agents and employees shall:

**5.6.1.** Not commit or allow any waste or damage to be committed on any portion of the Premises;

**5.6.2.** At this Lease's termination, by lapse of time or otherwise, remove its property, including Tenant's trade fixtures, deliver the Premises to Landlord in as good condition as at date of possession by Tenant, and as thereafter improved by Landlord or Tenant, ordinary wear and tear excepted; property not removed by Tenant at the termination of this Lease, however terminated, shall be considered abandoned, and Landlord may dispose of or store the same as it deems expedient, the cost thereof to be charged to and paid by Tenant;

**5.6.3.** Comply at all times with the Rules, the Ground Lease and all applicable federal, state and local statutes, regulations, ordinances and other requirements of any constituted public authorities, relating to its use and occupancy of the Premises; and

**5.6.4.** Keep the Premises in good order and condition; subject to the restrictions of this Lease, repair all damage to the Premises, except damage from fire and extended coverage type risks and repairs to the extent these are Landlord's obligations; replace all glass broken by Tenant, its agents,

employees or invitees, with glass of the same quality as that broken, except for glass broken by fire and extended coverage type risks for which insurance reimbursement is received by Landlord.

**5.7. Mechanics' Liens.** Tenant shall not permit any mechanic's lien to be placed on the Land, or any part of it, or Building, during the Term hereof, resulting from any work performed, materials furnished or obligation incurred by or at Tenant's request or for its benefit. Nothing in this Lease shall be construed in any way as constituting Landlord's consent or request, express or implied, to any contractor, subcontractor, laborer or materialman for the performance of any labor or the furnishing of any materials for any specific improvement, alteration or repair to the Premises, or any part of it, nor as giving Tenant any authority to contract for, or permit the rendering of, any services or the furnishing of any materials that would give rise to any mechanic's or other liens against Landlord's interest in the Premises. If any such lien is filed:

**5.7.1.** Tenant shall cause it to be discharged of record within ten (10) days after filing, or shall post a bond or arrange conditional payment, provided any such bond or arrangement is approved by Landlord and its Mortgagee.

**5.7.2.** If Tenant fails to timely discharge any such lien (or make arrangement for discharge satisfactory to Landlord), then, in addition to any other remedy, Landlord, on giving Tenant written notice, may but shall not be obligated to, discharge the lien, either by paying the claimed amount, or by procuring its discharge by deposit in court or by bonding. Any amount paid by Landlord for any of these purposes, or to satisfy any other lien, not caused or claimed to be caused by Landlord, with interest thereon at the highest rate allowed by law from the date of payment, plus Landlord's reasonable attorneys' fees, shall be paid by Tenant to Landlord on demand as Additional Rent.

## Article 6

### SUBORDINATION, ATTORNMEN, HOLDING OVER, ASSIGNMENT, ESTOPPEL

**6.1. Subordination to Mortgage and Ground Lease; Attornment.** This Lease, including the covenant of quiet enjoyment, is automatically subject and subordinate to all ground or underlying leases now or hereafter entered into and to all present Mortgages affecting the Land or Building, to all renewals and extensions thereof, to any Mortgage which may hereafter be executed affecting the Land or Building, and any existing or future covenants, conditions, restrictions, easements, rights of way or any construction, operation and reciprocal easement agreements. At Landlord's request, Tenant shall execute all instruments in writing to subordinate Tenant's rights acquired by this Lease to the lien of any such Mortgage, lease, etc. Tenant appoints Landlord its attorney-in-fact irrevocably to execute, acknowledge and deliver any such instrument or instruments for Tenant as Landlord may determine necessary to carry out the intent of this Article 6. Notwithstanding the foregoing, Tenant shall automatically attorn to any purchaser at foreclosure sale, to any grantee or transferee designated in any deed given in lieu of foreclosure, or to any Mortgagee in possession and recognize such transferee of or successor as Landlord under this Lease, and this Lease shall thereafter continue in full force and effect.

**6.1.1.** In the event of a termination of the Ground Lease or lawful re-entry or repossession of the Premises by Ground Lessor, Tenant shall automatically attorn to Ground Lessor; however, Ground Lessor shall not be (a) liable for any act or omission of any prior landlord or any default of any prior landlord, (b) subject to any rental offsets or defenses available against a prior landlord, or (c) liable for any prepayment of more than one month's rent or any security deposit paid by Tenant.

**6.1.2.** Landlord irrevocably authorizes and directs Tenant, upon receipt of any written notice from Ground Lessor certifying that: (a) a default exists in the performance of Landlord's obligations under the Ground Lease, (b) Ground Lessor has given Landlord written notice of such default, and (c) any applicable cure period for Landlord's benefit has expired, to pay to Ground Lessor the rents and other amounts due and to become due under this Lease as such rents and other amounts shall become due and payable under this Lease. Tenant shall have the right to rely upon any such certification and request from Ground Lessor, and Tenant shall pay such rents and other amounts to Ground Lessor without any obligation or right to inquire as to whether such default exists and notwithstanding any notice from or claim from Landlord to the contrary, and Landlord shall have no right or claim hereunder against Tenant for any such rents or other amounts so paid by Tenant. Such payments to Ground Lessor shall satisfy and discharge Tenant's obligation for the payment of rent and other amounts under this Lease to the full extent of such payments made to Ground Lessor.

**6.2. Holding Over.**

**6.2.1.** Any holding over with Landlord's written consent shall thereafter constitute this Lease month-to-month tenancy, under the provisions of this Lease, to the extent applicable to a month-to-month tenancy, at the rental rate agreed to when such consent is given.

**6.2.2.** If Tenant holds over after expiration or other termination of this Lease without Landlord's written consent, Tenant shall, throughout the entire holdover period, pay rent equal to 150% of the Base Rent in effect on the last day before such termination, together with the Additional Rent described herein which would have been applicable had this Lease continued through the period of such holding over by Tenant.

**6.2.3.** No holding over by Tenant shall be construed to extend the Term. In the event of any unauthorized holding over, Tenant shall indemnify, defend and hold Landlord harmless against all claims for damages resulting from delay by Landlord in delivering possession of all or part of the Premises to any other lessee or prospective lessee of all or part of the Premises.

**6.3. Assignment; Subletting.** Without prior written consent of Landlord and any Mortgagee of the Building (if approval is required by Mortgagee under the loan documents), Tenant shall not: (a) assign, or in any way transfer this Lease or any estate or interest therein, (b) permit any assignment of this Lease or any estate or interest therein by operation of law, (c) sublease all or part of the Premises, (d) grant any license, concession or other right of occupancy to any party, or (e) mortgage, pledge or otherwise encumber all or part of this Lease or any interest in the Premises.

**6.3.1.** If Tenant requests consent to assign or sublet all or part of the Premises, it shall submit to Landlord, in writing, at least sixty (60) days before the date on which Tenant desires to make effective such assignment or sublease: (a) the name of the proposed assignee or subtenant, (b) the proposed commencement date, (c) the nature of the specialty or practice of the proposed assignee or subtenant, (d) a copy of the proposed sublease which shall contain a provision stating that if Tenant defaults under this Lease, the subtenant shall attorn to Landlord, or in the event of any proceeding to foreclose a Mortgage, shall attorn to the lender or any successor in interest of the lender designated in a written notice by lender to a subtenant, effective on the date the subtenant receives notice from Landlord or a lender that Tenant is in default under this Lease and instructing subtenant to pay rent to Landlord, lender, or lender's designee, (e) sufficient information, including references, so that Landlord can make informed decisions whether the proposed assignee or subtenant is professionally and financially qualified to become an assignee or subtenant, and (f) \$500 payment toward Landlord's attorneys' fees for reviewing, consenting to, rejecting, and/or consummating any proposed assignment or sublease. Landlord's consent to any such assignment or sublease may be withheld on any reasonable basis, including any prospective violation of this Lease or the Ground Lease, or an imbalance in the types of medical and dental skills or number of medical professionals of any specialty occupying the Building. Landlord shall notify Tenant of its decision within a reasonable time, not to exceed thirty (30) days after Tenant's documentation supporting its request has been provided to Landlord.

**6.3.2.** Landlord's acceptance of rent from any assignee, sublessee or occupant shall not constitute a consent to any assignment or sublease nor shall it constitute a waiver of Landlord's right to approve or disapprove such assignment or sublease, nor a waiver with respect to any further assignment or more assignments or subleases.

**6.3.3.** Landlord's consent to any such assignment or subletting shall not operate as a waiver of its right to approve or disapprove any subsequent assignment or subletting. Unless expressly released in writing in connection with an assignment, Tenant, and any guarantor of Tenant's obligations under this Lease, shall remain fully liable for the payment of the Rent herein specified and for compliance with all of Tenant's other obligations under this Lease.

**6.3.4.** If a default, as defined in this Lease, occurs while all or part of the Premises, are assigned or sublet, Landlord, in addition to any other remedies available to it, may, at its option, collect all payments due directly from such assignee or sublessee and credit any such collections against any sums due to Landlord by Tenant hereunder. Tenant authorizes and directs any such assignee or sublessee to pay such rent directly to Landlord on receipt of such notice from Landlord. No direct collection by Landlord from any such assignee or sublessee shall be construed to constitute a novation or a release of Tenant or any guarantor from the further performance of their obligations hereunder. Landlord's receipt

issued to any such assignee or sublessee obligated to make payments of rent shall be a full and complete release, discharge and acquittance of such person, to the extent of any rent so paid to Landlord. Landlord is authorized and empowered, on Tenant's behalf, to endorse Tenant's name on any check or other instrument payable to Tenant evidencing payment of rent, or any part thereof, and to receive and apply the proceeds therefrom in accordance with the terms hereof.

**6.3.5.** If Tenant is an entity, any of the following shall be deemed a voluntary assignment: (a) the sale, assignment, transfer or disposition of all or substantially all of Tenant's assets; (b) the sale, assignment, transfer or disposition of 50% or more of the stock, partnership, membership or other interests (whether equity or otherwise and whether voluntary or otherwise) in Tenant (including the conveyance, sale, assignment, transfer or disposition of all or substantially all the assets, stock or partnership, membership or other interests (whether equity or otherwise) in any Person Controlling Tenant); (c) the merger, reorganization, share exchange, recapitalization, restructuring or consolidation of Tenant (including the merger, reorganization, share exchange, recapitalization, restructuring or consolidation of any Person Controlling Tenant), unless such transaction would result in (i) the voting securities of Tenant (or the Person Controlling Tenant) outstanding immediately prior to the transaction continuing to represent (either by remaining outstanding or by being converted into voting securities of the surviving entity) at least 50% of the combined voting power of the voting securities of Tenant (or the Person Controlling Tenant) or surviving entity outstanding immediately after such transaction or (ii) the management of Tenant (or the Person Controlling Tenant) or the surviving entity after such transaction being Controlled (i.e., a majority of managerial Control) by Tenant (or the Person Controlling Tenant) and/or by the directors, partners, members or similar management of Tenant (or the Person Controlling Tenant) immediately prior to such transaction; or (d) the acquisition (directly or indirectly) by any "Person" or "Group" (within the meaning of Sections 13(d) and 14(d)(2) of the Securities Exchange Act of 1934) of an aggregate of 40% or more of the beneficial ownership (within the meaning of Rule 13d-3 of the Securities Exchange Act of 1934) of the issued and outstanding voting securities of Tenant.

**6.4. Estoppel Certificate.** Tenant shall, at any time and from time to time, on not less than ten (10) days' notice by Landlord, acknowledge and deliver to Landlord, or any Mortgagee or Ground Lessor, an estoppel certificate in a form, including recordable form, required by Landlord, Ground Lessor, Mortgagee or prospective Mortgagee or purchaser of the Land and/or Building or any portion thereof certifying to facts reasonably requested by Landlord or any prospective purchaser or Mortgagee. Any person may rely on any such certificate executed or acknowledged by Tenant. Tenant's failure to timely (i.e., within 10 days after receipt) object in writing to the accuracy of any such certificate submitted to it shall: (a) constitute an admission of the accuracy of the certificate, (b) establish conclusively against Tenant that this Lease is in full force and effect and has not been modified except as represented by Landlord, there are no uncured defaults in Landlord's performance, Tenant has no right of offset, counterclaim or deduction against Rent, no Rent has been paid earlier than the due date(s) in question, and all other items in the certificate are true, (c) constitute an irrevocable appointment of Landlord as Tenant's special attorney-in-fact to execute and deliver the certificate to any third party, and (d) at Landlord's election, be a default under this Lease.

**6.5. Financial Statements.** Tenant shall furnish Landlord, within ten (10) days after Landlord's request, a copy of Tenant's most recent financial statement. Landlord may deliver a copy of such statement to any Mortgagee or prospective Mortgagee of Landlord or any prospective purchaser of the Land or Building, but otherwise Landlord shall treat such statements and the information contained therein as confidential.

## Article 7

### WARRANTIES OF LANDLORD AND SUCCESSORS

**7.1. Quiet Enjoyment.** Subject to all provisions of this Lease, and provided Tenant timely pays all Rent provided herein and performs all obligations on its part to be performed, Tenant shall have the right to hold and enjoy possession of the Premises free from unreasonable interference or annoyance by Landlord.

**7.2. Transfer by Landlord.** As of the Effective Date, Landlord holds and exercises the right, as against all others (except space tenants of the Building) to possession of the entire Building.



7.2.1. In the event of voluntary or involuntary transfer of such ownership or right to a successor in interest of Landlord, Landlord shall be relieved of any further obligation to perform hereunder, including any liability for Tenant's Security Deposit, provided such deposit is transferred to Landlord's successor. Tenant thereafter shall look solely to such successor in interest for performance of the covenants and conditions of Landlord's part to be performed.

7.2.2. Notwithstanding the foregoing, any Mortgagee or ground lessor succeeding to the Landlord's interest shall not be: (a) liable for any act or omission of any prior landlord or any default of any prior landlord, (b) subject to any rental offsets or defenses available against a prior landlord, (c) liable for any prepayment of more than one month's rent or any security deposit paid by Tenant, (d) bound by any amendment of this Lease made without its written consent, or (e) liable for any security deposit not actually received by it.

7.3. **Limitation of Landlord's Liability.** Landlord and its successors shall be liable for breaches of covenant occurring only during each one's respective ownership of Landlord's interest. Landlord and its successors shall in no event be personally liable to Tenant for any judgment exceeding the value of its interest in the Building and Land, plus the amount of any recoverable liability or indemnity insurance available to it with respect to such breach. Any liability of Landlord shall be the responsibility of the entity comprising Landlord, and no officer, director, shareholder, partner, member, manager or other principal or component of Landlord shall have any responsibility or liability of Landlord. Tenant irrevocably waives any "alter ego" or similar claim against such person(s).

## Article 8 CASUALTY AND INSURANCE

8.1. **Casualty.** If fire or other casualty shall damage all or part of the Premises, or Tenant shall gain knowledge of any defect in the Building or Premises or any equipment therein, Tenant shall give immediate written notice thereof to Landlord.

8.1.1. **Substantial Reconstruction.** If the Building shall be so damaged by fire or other casualty that substantial alteration or reconstruction of the Building shall, in Landlord's sole opinion, be required or any Mortgagee under a Mortgage covering the Building should require that the insurance proceeds payable as a result of said fire or other casualty be used to retire the mortgage debt, Landlord may, at its option, terminate this Lease. Landlord must notify Tenant in writing of such termination within one hundred twenty (120) days after the date of such damage. In such event, all Rent of any form hereunder shall be abated as of the date of such notice and Tenant shall immediately vacate the Premises.

8.1.2. **Restoration.** If Landlord does not elect to terminate this Lease, Landlord shall, within one hundred twenty (120) days after the date of such damage, commence and proceed with reasonable diligence to restore the Building (except that Landlord shall not be responsible for delays by reason of adjustment of loss under insurance policies or for delays beyond Landlord's reasonable control) to substantially the same condition as immediately before the happening of the casualty. Landlord shall not be required to rebuild, repair or replace any part of Tenant's furniture or furnishings or fixtures and equipment removable by Tenant under this Lease. Such work shall not exceed the scope of the work done by Landlord in originally constructing the Building and installing the Tenant Improvements in the Premises. In conjunction with any such restoration:

a. Landlord shall not be liable for any inconvenience or annoyance to Tenant, or injury to Tenant's business resulting in any way from such damage, or the repair thereof. However, Landlord shall allow Tenant a fair diminution of rent during the time, and to the extent, the Premises are unfit for occupancy. If a dispute arises as to the amount of such diminished rent due, Tenant shall pay the full amount claimed by Landlord to be due under this Lease, but Tenant reserves the right to proceed by law to recover the excess, if any.

b. If Landlord does not complete the work within two hundred seventy (270) days after such casualty (extended by any "force majeure" provisions hereof, if appropriate), Tenant may, at its option, terminate this Lease at any time thereafter on thirty (30) days' written notice to Landlord, provided such written notice is given before restoration is complete.

**8.1.3. Tenant's Negligence.** If the Premises, or any other portion of the Building, is damaged by fire or other casualty resulting from the fault or negligence of Tenant or any of Tenant's agents or employees, the Rent shall not be diminished during the repair of such damage. Tenant shall also be liable to Landlord for the cost and expense of the repair and restoration of the Building caused thereby, and Tenant shall have no right to terminate this Lease.

**8.1.4. Insurance Benefits.** Any fire or extended coverage insurance which may be carried by Landlord or Tenant against loss or damage to the Building or the Premises shall be for the sole benefit of the party carrying such insurance and under its sole control.

**8.2. Landlord's Insurance.**

**8.2.1. Casualty and Business Interruption.** Landlord shall maintain fire, extended coverage and other property insurance on the Building, including all Tenant Improvements, as Landlord may elect. Such insurance shall be maintained with an insurance company authorized to do business in the State in which the Building is located ("**State**"), in amounts sufficient to cover the replacement cost of such property. Landlord may also maintain loss of rents insurance in such amount, and for such term, as it deems reasonable. The cost of such insurance shall be included in the computation of Operating Expenses. If the premiums on such insurance should exceed standard rates because of extra-hazardous exposure arising from Tenant's operations, contents of the Premises or improvements on the Premises beyond Building standard, such excess premium shall be paid by Tenant and excluded from the computation of Operating Expenses. Losses under all such insurance shall be payable only to Landlord.

**8.2.2. Liability.** Landlord shall maintain a policy or policies of comprehensive general liability insurance for the Building with limits of not less than \$1,000,000 per person and \$5,000,000 per occurrence in respect of bodily injury or death, and at least \$500,000 for property damage per occurrence. Landlord in its sole discretion may increase the limits of such coverage at any time as it considers prudent and the premiums for such insurance shall be included in the computation of Operating Expenses.

**8.3. Tenant's Insurance.** Tenant shall maintain, at its expense, the following coverages in the following amounts:

**8.3.1. Liability.** Broad Form Commercial General Liability Insurance (including protective liability coverage on operations of independent contractors engaged in construction and blanket contractual liability insurance) covering Tenant against claims of bodily injury, personal injury and property damage arising out of its operations, assumed liabilities or use of the Premises, including a Broad Form Commercial General Liability endorsement covering the insuring provisions of this Lease and Tenant's performance of the indemnity provisions in this Lease, for limits of liability not less than:

Bodily Injury and Property Damage Liability	\$1,000,000 each occurrence \$2,000,000 annual aggregate
Personal Injury Liability	\$1,000,000 each occurrence \$2,000,000 annual aggregate 0% Insured's participation

**8.3.2. Casualty.** "All Risk" or "Special Causes of Loss" property insurance covering (a) all furniture, trade fixtures, equipment, merchandise and all other items of Tenant's property on the Premises installed by Tenant, (b) alterations, including any alterations which Landlord permits to be installed above the ceiling or below the floor of the Premises, and (c) all other improvements, alterations and additions to the Premises, including any improvements, alterations or additions installed at Tenant's request above the ceiling or below the floor of the Premises. Such insurance shall be written on an "all risks" of physical loss or damage basis, excluding earthquake or flood, for the full replacement cost value new without deduction for depreciation of the covered items and in amounts that meet any co-insurance clauses of the policies of insurance and shall include a vandalism and malicious mischief endorsement, and sprinkler leakage coverage provided Tenant's policies may have a deductible not to exceed Ten Thousand Dollars (\$10,000).

**8.3.3. Business Interruption.** Business interruption insurance covering risk of loss from any of the hazards covered by the insurance to be maintained by Tenant described in Section 8.3.2 above with coverage in a face amount not less than the aggregate amount, for a period of twelve (12)

months after the insured-against peril, of one hundred percent (100%) of all Rent to be paid by Tenant under this Lease.

**8.3.4. Worker's Compensation.** Worker's compensation insurance and employer's liability coverage insuring against all liability to third parties for damages resulting from bodily injury (or death resulting therefrom) or property damage, including personal injury, in the amount of not less than a combined single limit of \$500,000, and all disability insurance required by the law of the State, covering all employees.

**8.3.5. Other Insurance.** Such other coverage as Landlord or any mortgagee of Landlord may require with respect to the Premises, its use and occupancy and the conduct or operation of business therein.

**8.3.6. Early Access.** At any time before the Commencement Date that Tenant makes any alterations to the Premises or performs any part of Tenant's work, Tenant shall, at its sole cost, maintain "Builder's Risk" insurance for the Premises, reasonably satisfactory to Landlord, and all restrictions and obligations arising under this Lease shall apply to the extent they protect or inure to the benefit of Landlord. Nothing in this Section 8.3.6 shall be construed to permit Tenant to enter the Premises or make any alterations before the Commencement Date, and no such right shall exist unless specified in this Lease.

**8.3.7. Form of Policies.** The minimum limits of policies of insurance required of Tenant under this Lease shall in no event limit Tenant's liability under this Lease. Such insurance shall (a) name Landlord, Landlord's property manager, if any, and any ground lessor or lender of Landlord, as an additional insured; (b) specifically cover the liability assumed by Tenant under this Lease, including Tenant's obligations under Article 9 below; (c) be issued by an insurance company having a rating of not less than A-XII or better in Best's Insurance Reports-Property-Casualty or other lesser rating which is otherwise acceptable to Landlord and licensed to do business in the State; (d) be primary insurance as to all claims thereunder and provide that any insurance carrier by Landlord is excess and is non-contributing with any insurance requirement of Tenant; (e) provide that said insurance shall not be canceled or coverage changed unless thirty (30) days' prior written notice shall be given to Landlord and any mortgagee or ground or underlying lessor of Landlord; and (f) contain a cross-liability endorsement or severability of interest clause acceptable to Landlord. Tenant shall deliver said policy(ies) or certificate(s) thereof to Landlord before occupancy of the Premises and at least thirty (30) days before the expiration date of the policy. If Tenant fails to procure such insurance, or deliver such policy or certificate, Landlord may, at its option, procure such policies for Tenant's account, and the cost thereof shall be paid to Landlord as Additional Rent within five (5) days after delivery to Tenant of bills therefor.

**8.3.8. Subrogation.** Landlord and Tenant shall have their respective insurance companies issuing property damage insurance waive any rights of subrogation that such companies may have against Landlord or Tenant, as the case may be, so long as the insurance carried by Landlord and Tenant, respectively, is not invalidated thereby. Landlord and Tenant waive any right either may have against the other on account of any loss or damage covered by their respective insurance policies (and to their respective property to the extent such loss or damage is insurable under policies of insurance for fire and all risk coverage, theft, public liability or other similar insurance).

**8.3.9. Additional Insurance Obligations.** Tenant shall carry and maintain during the entire Lease Term, at Tenant's sole cost and expense, increased amounts of the insurance required to be carried by Tenant pursuant to this Article 8, as Landlord may reasonably request, not to exceed amounts of coverage generally maintained by similar medical professional office Buildings in the County where the Building is located, from time to time.

## **Article 9** **LIABILITY**

**9.1. Indemnification; Waiver of Liability.** Tenant shall indemnify, defend and hold Landlord, its members, partners, and Building manager, Mortgagee, Ground Lessor, and their officers, employees and agents, harmless from suits, actions, damages, liability and expenses (including reasonable attorneys' fees) in connection with loss of life, bodily or personal injury, or property damage arising from the Premises or Tenant's use of the Building, Hospital, or Land from any cause whatsoever, unless the

result of gross negligence or willful misconduct of Landlord, its members, partners, Building manager, Mortgagee, Ground Lessor, or any of their members, manager, partners, directors, officers, employees or agents. Landlord, its Building manager, Mortgagee, Ground Lessor, and any of their members, manager, partners, directors, officers, employees and agents, shall not be liable to Tenant for any such damage or loss, whether the result of their gross negligence or willful misconduct, to the extent Tenant is indemnified or compensated therefor by Tenant's insurance. Except to the extent caused by Landlord's grossly negligent acts or willful misconduct, (a) Tenant assumes all risk of and waives all claims against Landlord regarding insurance, and (b) Landlord shall not be liable for, any of the matters set forth in this Section 9.1 or any of the following: injury to Tenant's business, loss of income from such business, or damage or injury to the goods, wares, merchandise, or other property or the person of Tenant, Tenant's Invitees, or any other persons in, on, or about the Premises, Building, Hospital, or Land, whether such damage, loss, or injury is caused by or results from criminal acts, fire, steam, electricity, gas, water, rain, the breakage, leakage, mold (including any remediation and/or reporting requirements under the Toxic Mold Protection Act of 2001, including California Health & Safety Code § 26145, if the Premises are located in California, or if not, then under any applicable law of the State), obstruction or other defects of pipes, sewer lines, sprinklers, wires, appliances, plumbing, air-conditioning or lighting fixtures, or any other cause, conditions arising on the Premises, or other sources or places, and regardless whether the cause of such damage, loss, or injury or the means of repairing such damage, loss, or injury is inaccessible to Tenant.

**9.2. Damages from Certain Causes.** Landlord shall not be liable or responsible to Tenant for any loss or damage to any property or person occasioned by theft, fire, act of God, public enemy, injunction, riot, strike, insurrection, war, court order, requisition or order of governmental body or authority, or for any damage or inconvenience which may arise through repair or alteration of any part of the Building or Premises, or failure to make any such repairs.

**9.3. Waiver of Certain Rights.** Anything in this Lease to the contrary notwithstanding, Landlord and Tenant each hereby waive each and every right of recovery, claim, action or cause of action against the other, its agents, officers or employees for any loss or damage that may occur to the Premises, or any improvements thereto, or the Building of which the Premises are a part, or any improvements thereto, or any personal property of such party therein, by reason of fire, theft, the elements, or any other cause which are insured against under the terms of standard fire and extended coverage insurance policies referred to herein, regardless of cause or origin, including gross negligence or willful misconduct of the other party hereto, its agents, officers or employees.

## **Article 10 CONDEMNATION**

**10.1. Entire Taking.** If all, or substantially all, of the Premises is taken for any public or quasi-public use under any governmental law, ordinance or regulation, or by right of eminent domain, or is sold to the condemning authority in lieu of condemnation, this Lease shall terminate as of the date when physical possession of the Premises is taken by the condemning authority.

**10.2. Partial Taking.** If less than all, or substantially all, of the Building or the Premises is taken or sold in the same manner as set forth in Section 10.1 above, Landlord (whether the Premises are affected thereby) may terminate this Lease by giving written notice thereof to Tenant within sixty (60) days after the right of election accrues, in which event this Lease shall terminate as of the date when physical possession of such portion of the Building or Premises is taken by the condemning authority. If, on any such taking or sale of less than all, or substantially all, of the Building or the Premises, this Lease shall not be so terminated, Base Rent shall be diminished by an amount representing that part of the Base Rent as Landlord reasonably allocates to the portion of the Premises so taken or sold.

**10.3. Tenant Has No Claim.** In no event of condemnation described in this Article 10 shall Tenant have any claim against Landlord for the value of any unexpired term of this Lease, except as to diminution of rent as stated in Section 10.2 above.

**Article 11**  
**DEFAULT AND REMEDIES**

**11.1. Tenant's Default.**

**11.1.1. Events of Default.** The occurrence of any of the following shall constitute a default by Tenant:

- a. Abandonment of the Premises.
- b. Tenant's failure to pay any Rent, or any other sum required of Tenant under this Lease, as and when due, where such failure continues for a period of three (3) days after written notice thereof to Tenant. No grace period applicable under this Lease will extend the due date of any Rent payment under this Lease, and Tenant will be in default if any such payment is not timely made. All Rent payments must be received on or before the first day of each calendar month.
- c. Tenant's failure to observe or perform any covenant, condition or provision of this Lease to be observed or performed by Tenant, other than described in Sections 11.1.1.a and 11.1.1.b above, where such failure continues for a period of ten (10) days after written notice thereof to Tenant; provided, if the breach is curable, and is such that more than ten (10) days are reasonably required for its cure, Tenant shall not be considered in default if Tenant promptly commences curing such breach and diligently prosecutes such cure to completion.
- d. Making by Tenant of any general assignment or general arrangement for the benefit of creditors; or the filing by, or against, Tenant of a petition for reorganization or arrangement under any bankruptcy law (unless, in case of a petition filed against Tenant, the petition is dismissed within sixty (60) days); or 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; or the attachment, execution or other judicial seizure of substantially all of Tenant's assets located on the Premises or of Tenant's interest in this Lease, where such seizure is not discharged within thirty (30) days.
- e. Tenant's failure to comply with the limitations on use of the Premises as set forth in Article 3 above, or loss of Tenant's Hospital staff status.
- f. Tenant's failure to observe or perform any covenant, condition or provision of the Ground Lease.

**11.1.2. Notice of Default.** Notices given under this Section 11.1 shall specify the alleged breach of Lease and the applicable Lease provisions allegedly so breached and shall demand, if the breach is curable, that Tenant perform the applicable Lease provisions or pay the Rent in arrears, as the case may be, within the applicable period of time, or quit the Premises. No such notice shall be considered a declaration of forfeiture or termination of the Lease unless Landlord so elects in the notice.

**11.2. Landlord's Remedies.** In the event of any such default by Tenant, Landlord may exercise at its sole discretion any one or more of the following remedies and any other remedies available to Landlord under applicable law:

**11.2.1. Termination.** Terminate Tenant's right to possession, provided Landlord's election to terminate the Lease and recover possession has been expressly stated in a notice given pursuant to this Lease. If Landlord has exercised such election after Tenant's default, this Lease shall terminate forthwith and Tenant shall immediately surrender possession of the Premises to Landlord. Notwithstanding such surrender of possession, Landlord shall be entitled to recover from Tenant:

- a. The worth at the time of award (defined below) of the unpaid Rent earned at the time of such termination;
- b. The worth at the time of award of the amount by which the unpaid Rent which would have been earned after termination until the time of award exceeds the amount of such rental loss which Tenant proves could have been reasonably avoided;
- c. The worth at the time of award of the amount by which the unpaid Rent for the balance of the Term after the time of award exceeds the amount of such rental loss that Tenant proves could reasonably be avoided; and

d. Any other amount necessary to compensate Landlord for all detriment proximately caused by Tenant's failure to perform its Lease obligations, or which, in the ordinary course of things, would likely result therefrom, including brokers' commission, cost of tenant improvements, and attorneys' fees.

The "**worth at the time of the award**" of the amount(s) referred to in: (1) Sections 11.2.1.a and 11.2.1.b above shall be computed by computing interest at the maximum rate permitted by law, and (2) Section 11.2.1.c above is computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of the award plus one percent (1%).

**11.2.2. Continue Lease and Recover Rent.** Landlord shall have the remedy described in California Civil Code § 1951.4, or if the State is not California, then any similar law of the State. This Lease shall continue in full force and effect for so long as Landlord chooses not to terminate Tenant's right to possession, and Landlord may enforce all its rights and remedies under this Lease, including the right to recover Rent as it becomes due. For purposes of this Lease, the following will not terminate Tenant's right to possession: (a) acts of maintenance or preservation or efforts to re-let the Premises; (b) Landlord's re-letting of the Premises or any part thereof as the agent and for Tenant's account on such reasonable terms and conditions as Landlord deems advisable, in which event the rents received on such re-letting and collection shall be applied first to the reasonable expenses of such re-letting and collection, including reasonable attorneys' fees and any real estate commissions paid, and thereafter to payment of all sums due or to become due to Landlord under this Lease, and if a sufficient sum shall not be thus realized by the payment of such sums and other charges, Tenant shall pay Landlord any deficiency monthly, and Landlord may bring an action therefor as such monthly deficiency shall arise; and (c) the appointment of a receiver on initiative of Landlord to protect Landlord's interest under this Lease.

**11.2.3. Cure Default.** Cure, on Tenant's behalf, any default by Tenant, and the reasonable cost of such cure (including any attorneys' fees incurred) shall be deemed Additional Rent, payable on demand.

**11.2.4. Other Rights and Remedies.** Pursue all other remedies available to Landlord in law or equity without limitation. Any election by Landlord under this Section 11.2 shall be effective only at the time of such election and Landlord may change such election at will or pursue one or more remedies at any time.

**11.3. Lien for Rent.** In consideration of the mutual benefits under this Lease, Tenant grants Landlord a contractual landlord's lien and security interest on all Tenant's property now or later placed in or on the Premises, and such property shall be and remain subject to such Landlord's lien and security interest for payment of all Rent of any form and other sums agreed to be paid by Tenant herein. This lien and security interest shall constitute a security agreement under the Uniform Commercial Code so that Landlord shall have, and may enforce, a security interest on all Tenant's property now or later placed in or on the Premises, including all fixtures, machinery, equipment, furnishings and other articles of personal property now or later placed in or on the Premises by Tenant. Tenant shall execute, as debtor, such financing statement(s) as Landlord may now or later reasonably request in order that such security interest(s) may be perfected under law. Landlord may, at its election, at any time file a copy of this Lease as a financing statement. Landlord, as secured party, shall be entitled to all the rights and remedies afforded a secured party under the Uniform Commercial Code in addition to, and cumulative of, Landlord's liens and rights provided by law or by the other terms and provisions of this Lease. Notwithstanding the foregoing, any property of Tenant placed on the Premises which is subject to vendor or third party encumbrances which prohibit the placement of additional encumbrances on such property shall be exempt from the requirements of this Section 11.3.

**11.4. No Implied Waiver.** The failure of Landlord, its Building manager or other agent or employee, to insist at any time on the strict performance of any covenant or condition, or to exercise any option, right, power or remedy contained in this Lease shall not be construed as a waiver or a relinquishment thereof for the future.

**11.4.1.** The waiver of, or redress for, any violation of any provision of this Lease shall not prevent a subsequent act, which would have originally constituted a violation, from having all the force and effect of an original violation. No express waiver shall affect any condition except the one specified in

such a waiver, and that one only for the time, and in the manner, specifically stated in such express written waiver.

**11.4.2.** Receipt by Landlord, its Building manager, or other agent or employee or either, of any Rent with knowledge of the breach of any covenant or agreement contained in the Lease shall not be deemed a waiver of such breach, and no waiver by Landlord, its Building manager, or other agent or employee of either, of any provision of this Lease shall be effective unless expressed in writing and signed by Landlord.

**11.4.3.** No payment by Tenant, or receipt by Landlord, its Building manager or other agent or employee of either, of a lesser amount than the Rent due under this Lease shall be deemed to be other than on account of the earliest Rent due hereunder, nor shall any endorsement or statement on any check, or any letter accompanying any check or payment as Rent, be deemed an accord and satisfaction. Landlord, its Building manager or other agent or employee of either, may accept such check or payment without prejudice to Landlord's right to recover the balance of such Rent or pursue any other remedy provided in this Lease.

**11.5. Exit Right.** Landlord understands that monies paid to Landlord by Tenant as Rent are derived from federal, state, or local sources, including local taxes, and are subject to curtailment, reduction, or cancellation by government agencies or sources beyond the control of Tenant. Tenant shall have the right to terminate this Lease on four (4) months written notice to Landlord if such curtailment, reduction, or cancellation occurs. On the expiration of such notice period, Tenant shall pay Landlord an exit fee equal to four (4) times the monthly Base Rent then in effect. The liability of the parties hereunder for further performance under this Lease, except as otherwise set forth in this Section and in Article 9 above, shall thereupon cease, but neither party shall be relieved of their duty to perform their obligations up to the date of termination.

## **Article 12 GENERAL TERMS**

**12.1. Interpretation.** Captions in this Lease are solely for convenience and shall not be given any effect in construing this Lease or in determining the parties' duties, obligations or liabilities. Time is of the essence of each obligation of Tenant hereunder. This Lease may be executed in counterparts, each of which shall be deemed an original. An executed counterpart of this Lease transmitted by fax shall be equally as effective as a manually executed counterpart. Each party shall take all reasonable steps, and execute, acknowledge and deliver all further instruments necessary or expedient to implement this Lease. No inference or presumption shall be drawn if a party or its attorney prepared and/or drafted this Lease. It shall be conclusively presumed that the parties participated equally in its preparation and/or drafting. Any recitals above, and any exhibits or schedules referred to and/or attached hereto, are incorporated by reference into this Lease. "**Person**" includes any individual(s), entity(ies), or combination thereof. "**Including**" or "**include**" means including without limitation. When the context requires, any gender includes all others, the singular number includes the plural, and vice-versa. All conditions of this Lease to be performed by Tenant shall be deemed covenants of Tenant as well as conditions.

**12.2. Voluntary Execution.** Tenant has signed below voluntarily after having been advised by its counsel of all provisions hereof, and, in signing below, Tenant is not relying on any inducements, promises and representations made by or on behalf of Landlord except as expressly contained in this Lease.

**12.3. Attorneys' Fees; Jurisdiction; Venue.** In any proceeding (including arbitration) involving this Lease: (a) the prevailing party shall be entitled to recover actual attorney's fees and all litigation-related costs (including expert witnesses' fees) incurred in addition to all other items of recovery permitted by law; (b) the proper place of trial or hearing shall be in the County, and (c) the parties irrevocably submit to the jurisdiction of the federal and State courts in the County.

**12.4. Entirety and Amendments.** This Lease contains the entire agreement between the parties regarding its subject matter. Any prior oral or written representations, agreements and/or understandings shall be of no effect. No amendment or discharge of this Lease shall be binding on any party unless in writing and executed by a duly authorized officer or a duly authorized agent of such party.

**12.4.1.** Tenant acknowledges that neither Landlord nor anyone acting for Landlord has made any binding representation or promise with respect to the Building, the Land or the Premises, except as herein expressly set forth. No rights, easements or licenses are acquired by Tenant, by implication or otherwise, except as expressly set forth in this Lease.

**12.4.2.** By taking possession of the Premises, without timely written objection to the condition thereof, Tenant shall be conclusively deemed to have accepted the Premises in their condition at the time of such acceptance and to have agreed that the Premises and the Building were in good and satisfactory condition at the time such possession was so taken.

**12.5. Severability.** If any provision of this Lease, or the application thereof to any person or circumstance, shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby. Each provision of this Lease shall be valid and enforced to the fullest extent permitted by law. The parties intend that, in lieu of each provision of this Lease that is illegal, invalid or unenforceable, there shall be added to this Lease, a provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible to be legal, valid and enforceable.

**12.6. Notice.** Any notice provided for, or permitted to be given, made or accepted by either party to the other must be in writing, and may, unless otherwise expressly provided in the Lease, be given or served by depositing the same in the U.S. mail, prepaid, and addressed to the party to be notified, or by delivering the same in person. Notice deposited in the mail in the manner described shall be deemed given two (2) days after the deposit, excluding Saturdays, Sundays and Holidays from the computation. The parties' addresses shall be as shown on the Summary, until changed by providing a new address for notices in the manner provided herein. Fax transmission to a fax machine specified in such a notice shall constitute personal delivery.

**12.7. Binding Effect.** Except as otherwise expressly provided herein and subject to any provision of this Lease that may prohibit or curtail Tenant's assignment of rights, all covenants and conditions contained in this Lease shall bind, extend and inure to the benefit of Landlord and Tenant and their respective heirs, administrators, successors and assigns. Except for Ground Lessor or as otherwise expressly provided in this Lease, there are no intended third-party beneficiaries to this Lease, and only the parties or their heirs, assigns, personal representatives and successors are entitled to enforce this Lease.

**12.8. Recordation.** Tenant shall not record this Lease. Each party shall, on the other's request, execute a memorandum of lease in form recordable under the law of the State. In no event shall such document set forth the rental or other charges payable by Tenant under this Lease. Any such document shall expressly state that it is executed pursuant to the provisions in this Lease and is not intended to vary the terms and conditions hereof.

**12.9. Governing Law and Zoning.** This Lease, and the rights and obligations of the parties hereto, shall be interpreted, construed and enforced in accordance with State law. If Landlord is ever enjoined or threatened to be enjoined from using the Land and Building as a medical office building site, due to any changes to zoning or due to any violation or asserted violation of applicable building codes or other laws and regulations, Landlord shall notify Tenant of such pending or threatened matters and Landlord shall have the option, on ninety (90) days' written notice, to terminate this Lease.

**12.10. Force Majeure.** When this Lease prescribes a time period for a party to take any action (except, in Tenant's case, for payment of Rent), that party shall not be liable or responsible for, and there shall be excluded from the computation of such period of time, any delays due to strikes, riots, acts of God, shortages of labor or materials, war, governmental laws, regulations or restrictions, or any act, omission, delay or neglect of that party or its employees or agents, or any other cause whatsoever beyond that party's reasonable control.

**12.11. No Brokers.** Tenant represents and warrants that it has not employed any broker or agent as its representative in the negotiation for, or the obtaining of, this Lease, and shall indemnify, defend and hold Landlord harmless from all cost, damage, fee (including attorneys' fees) or liability for compensation claimed by any broker or agent with whom Tenant has dealt.



**12.12. Liability for Performance.** Each person comprising Tenant shall be jointly and severally liable hereunder for the full and faithful performance of all the conditions and covenants binding on Tenant.

**12.13. Guarantors.** Each Guarantor executing a Guarantee of this Lease shall be jointly and severally liable for all obligations and covenants of Tenant hereunder, and Tenant and Guarantors specifically agree that Landlord may enforce any remedies it has against any, or all, Guarantors directly, on default by Tenant, without first exhausting any remedy against Tenant.

**12.14. Discrimination Prohibition.** There shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, marital status, disability, handicap, age, ancestry, national origin or any other prohibited category, in the leasing, subleasing, transferring, use, occupancy, tenure or enjoyment of the Premises nor shall Tenant or any person claiming under or through Tenant establish or permit any such practice(s) of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subleases, Subtenants or vendees in the Premises.

**12.15. Late Charge.** Tenant's failure to pay Rent promptly may cause Landlord to incur unanticipated costs, which are impractical or extremely difficult to ascertain precisely. Such costs may include processing and accounting charges and late charges that may be imposed on Landlord by any ground lease, Mortgage encumbering the Building or Land. If Landlord does not receive any Rent payment when due, Tenant shall pay Landlord a late charge equal to ten percent (10%) of the Rent not paid. Such late charge represents a fair and reasonable estimate at the date of this Lease of the costs Landlord will incur by reason of such late payment.

**12.16. Payment of Rent by Cashier's Check.** If a late charge is payable under this Lease, whether collected, for two (2) installments of Rent during any one calendar year during the Term, or if any payment made by Tenant in the form of a personal or business check is returned, for any reason including insufficient funds, by the bank on which it was drawn, then Landlord at its option may require Tenant to submit future payments to Landlord in the form of a certified cashier's check or money order. Tenant's obligation to provide payment in this manner shall continue until Landlord, in its sole discretion, determines otherwise. Tenant will reimburse Landlord, as additional Rent, Landlord's actual costs imposed by Landlord's bank or financial institution arising from Tenant's returned check(s). These costs shall be in addition to any late charges payable by Tenant pursuant to this Lease.

**12.17. Off-Site Parking.** All off-site parking for the Building (i.e., parking not located on the Land) shall be provided by means of a non-exclusive license for parking on the campus of Ground Lessor (the license agreement is attached to the Ground Lease as Exhibit H). Ground Lessor will have exclusive control over parking charges and rules and regulations regarding parking and access as more particularly set forth therein. Any amounts payable by Landlord under the license agreement or the Ground Lease with respect thereto shall be included in Operating Expenses under this Lease.

**12.18. Hospital Common Facilities.** Certain common facilities on the campus of Ground Lessor are or may from time to time be available for the use and enjoyment of the Building's tenants (including Tenant) pursuant to a Declaration of Easements and Covenants encumbering the campus of Ground Lessor (the Declaration of Easements and Covenants is attached to the Ground Lease as Exhibit I). Ground Lessor will have exclusive control all such common facilities and rules and regulations regarding use and enjoyment thereof. Any amounts payable by Landlord under the Declaration of Easements and Covenants or the Ground Lease with respect thereto shall be included in Operating Expenses under this Lease.

**12.19. Lender Modification.** If, in connection with Landlord or Ground Lessor obtaining any financing for the Land and/or Building, a lender shall request reasonable modifications to this Lease as a condition to such financing, Tenant shall not unreasonably withhold, delay or defer its consent thereto, provided such modifications do not materially adversely affect the leasehold interest hereby created or Tenant's rights or obligations hereunder.

**12.20. Changes to Building.** Landlord reserves the right, without incurring any liability to Tenant therefor, to make such changes in or to the Building and appurtenant areas and fixtures and equipment thereof, as it may deem desirable or necessary.

**12.21. Hazardous Material.** As used herein, "Hazardous Material" means any hazardous or toxic substance, material or waste that is or becomes regulated by any local governmental authority, the State or U.S. Government. Tenant shall not use, transport, store, maintain, generate, manufacture, handle, dispose, release or discharge any Hazardous Material on or about the Premises, Building, Hospital, or Land. However, this shall not prohibit the transportation to and from, and use, storage, maintenance and handling within, the Premises of substances of the kind and in the amounts customarily used by Tenant in the conduct of its medical business, provided: (a) such substances shall be used and maintained only in such quantities as are reasonably necessary for such permitted use of the Premises, strictly in accordance with all environmental laws now in force or which may hereafter be promulgated ("**Environmental Laws**") and the manufacturers' instructions therefor, and (b) such substances shall not be disposed of or intentionally released or discharged on the Premises, Building, Hospital, or Land, and shall be transported to and from the Premises, in compliance with all Environmental Laws. If any Hazardous Material is released, discharged, disposed of or left to remain on or about the Premises, Building or Land in violation of these provisions by Tenant or its invitees, employees, agents or contractors, Tenant shall promptly, properly and in compliance with Environmental Laws clean up and remove the Hazardous Material from the Premises, Building, Hospital, or Land and any other affected property and clean or replace any affected personal property (whether owned by Landlord), at Tenant's expense and sole risk. Such clean up and removal work shall include any testing, investigation and the preparation and implementation of any remedial action plan required by any governmental body having jurisdiction or reasonably required by Landlord. If Tenant fails to comply with the provisions of this Section within ten (10) days after written notice by Landlord, or such shorter time as may be required by Environmental Law or in order to minimize any hazard to persons or property (including the Land), Landlord may (without being obligated) arrange for such compliance directly or as Tenant's agent through contractors or other parties selected by Landlord, at Tenant's expense and sole risk (without limiting Landlord's other remedies under this Lease or Environmental Law) and Tenant shall sign any manifest for the transportation or disposal of such Hazardous Material in Tenant's name. Tenant acknowledges that, if Tenant breaches the provisions of this Section, recovery of monetary damages will not be an adequate remedy (because of the risk to Landlord of interminable future liability under Environmental Laws for Hazardous Materials removed from the Premises) and therefore consents to the granting to Landlord of specific performance and other equitable remedies for the enforcement of Landlord's rights under this Section. Tenant shall indemnify, protect, defend and hold harmless Landlord and its partners, officers, employees, agents, representatives and successors in interest from and against all damages, losses, claims, costs, obligations, expenses, attorney's fees and other liabilities (however described) with respect to (y) any Hazardous Material released or caused by Tenant or its employees, agents, contractors, licensees or invitees on the Premises or on any portion of the Building or the Land, and (z) violation of any Environmental Laws caused by the act, activity or omission of Tenant or any of its employees, agents, contractors, licensees or invitees. Tenant's obligations under this Section 12.21 shall survive the expiration or earlier termination of this Lease. No termination, cancellation or release agreement entered into by Landlord and Tenant shall terminate Tenant's obligations under this Section 12.21 unless such intent is specifically set forth in a written document executed by Landlord and Tenant.

Tenant acknowledges that Landlord may incur costs (1) for complying with laws, codes, regulations or ordinances relating to Hazardous Material, or (2) otherwise in connection with Hazardous Material, including the following: (a) Hazardous Material present in soil or ground water; (b) Hazardous Material that migrates, flows, percolates, diffuses or in any way moves onto or under the Land; (c) Hazardous Material present on or under the Land as a result of any discharge, dumping or spilling (whether accidental or otherwise) on the Land by other tenants of the Building or their agents, employees, contractors or invitees or by others; and (d) material which becomes Hazardous Material due to a change in laws, codes, regulations or ordinances which relate to hazardous or toxic material, substances or waste. The costs incurred by Landlord in connection with complying with laws, codes, regulations or ordinances relating to Hazardous Materials shall be an Operating Expense, unless the cost of such compliance, as between Landlord and Tenant, is made the responsibility of Tenant under this Lease. To the extent any such Operating Expense relating to Hazardous Material is subsequently recovered or reimbursed through insurance, or recovery from responsible third parties, or other action, Tenant shall be entitled to a proportionate share of such Operating Expense to which such recovery or reimbursement relates. Notwithstanding anything to the contrary set forth herein, Tenant shall have no liability whatsoever for costs relating to Hazardous Material conditions which existed before the Lease

Commencement Date or which result from the act or omission of Landlord, any other Tenant or occupant of the Building, or any of their respective agents, employees or contractors.

**12.22. Mold.** Without limiting the generality of any other provision of this Lease, Tenant shall not create or permit to exist in or about the Premises any Mold Condition and Tenant shall, at its sole cost and expense, regularly monitor the Premises for the presence of Mold and Mold Conditions. In the event of suspected or actual Mold or Mold Conditions at the Premises, Tenant shall promptly (but in any event within five (5) days of the discovery thereof) notify Landlord in writing of the same and the precise location thereof. BY ITS SIGNATURE TO THIS LEASE, TENANT CONFIRMS IT EXAMINED THE PREMISES WITH RESPECT TO MOLD AND MOLD CONDITIONS BEFORE THE COMMENCEMENT DATE AND ACCEPTS IT "AS IS" AND WITH NO MOLD OR MOLD CONDITIONS PRESENT THEREON.

**12.22.1.** In the event of suspected Mold or Mold Conditions at the Premises, Tenant, at its sole cost and expense, shall promptly cause an inspection of the Premises to be conducted, during such time as Landlord may designate, to determine if Mold or Mold Conditions are present at the Premises, and shall notify Landlord, in writing, at least three (3) days before the inspection, of the date on which the inspection shall occur, and which portion of the Premises shall be subject to the inspection. Tenant shall retain a Mold Inspector to conduct the inspection and shall cause such Mold Inspector to perform the inspection in a manner that is strictly confidential and consistent with the duty of care exercised by a Mold Inspector and to prepare an inspection report, keep the results of the inspection report confidential, and promptly provide a copy to Landlord.

**12.22.2.** If any Mold or Mold Conditions in or about the Premises are a result of the actions or omissions of Tenant or any Tenant Party, Tenant shall promptly, at Tenant's sole cost and expense, hire a trained and experienced Mold remediation contractor(s) to completely clean-up and remove from the Premises all Mold or Mold Conditions. All such clean-up, removal and remediation shall, in each instance, be conducted to the satisfaction of Landlord and any governmental authority with jurisdiction and otherwise in strict compliance with all Mold Remediation Requirements. Such clean-up, removal and remediation shall also include removal and replacement of any infected host materials as well as any repairs and refinishing required as the result of such removal and replacement. There shall be no abatement of rent on account of any clean-up, removal or remediation of any such Mold or Mold Condition. Any clean-up, removal and or other remediation of Mold or any Mold Condition must be completed in its entirety at the expiration of this Lease. Landlord's right of entry pursuant to Section 5.5 above shall include the right to enter, inspect and test the Premises for Mold or Mold Conditions and violations of Tenant's covenants herein. If any such inspection and/or testing reveals the presence of Mold or Mold Conditions at the Premises as a result of the actions or omissions of Tenant or any Tenant Party, Tenant shall promptly remediate the same pursuant to this Section 12.22.

**12.22.3.** Tenant shall indemnify, defend and hold harmless Landlord, its partners, and its and their respective successors, assigns, partners, officers, trustees, beneficiaries, members, managers, employees, agents, lenders, attorneys and affiliates and any parties providing contract management or security services (collectively "**Indemnified Parties**") from and against all claims, liabilities, losses, actions, costs and expenses (including attorneys' fees and costs of defense) incurred by such Indemnified Parties, or any of them, as the result of (a) the creation of a Mold Condition by Tenant or any Tenant Party, (b) the presence of Mold on or in the Premises as a result of any action or omission by Tenant or any Tenant Party, (c) any illness to or death of persons or damage to or destruction of property resulting from such Mold or Mold Conditions caused by any action or omission by Tenant or any Tenant Party, and (d) any failure of Tenant or any Tenant Party to observe the foregoing covenants of this Section 12.22. All indemnification covenants under this Lease (including the foregoing) are intended to apply to losses, damages, injuries and claims incurred directly by the Indemnified Parties and their property, as well as by the Indemnifying Party or a third party, and their property. Payment shall not be condition precedent to enforcement of the foregoing indemnification obligations. Tenant's defense obligation hereunder shall include the obligation, on demand, to defend each Indemnified Party against any claim or action of the types herein specified by legal counsel reasonably satisfactory to Landlord.

**12.23. Relocation.** Landlord shall have the right, from time to time and at any time during the Term, to relocate Tenant to another office space within the Building containing at least the same amount of Rentable Area, subject to the following: (a) Landlord shall give Tenant at least ninety (90) days' written notice of the proposed relocation; (b) The Rent shall be abated from the date Tenant commences

removal from the Premises until such time as Tenant offers medical services from the new premises, but not longer than thirty (30) days after the new premises are made available to Tenant; (c) Landlord shall reimburse Tenant for all reasonable expenses incurred by Tenant in making such relocation, including the net cost of putting the new premises in the same condition as the old, after crediting the salvage value of any fixtures or other removable property removed by Tenant from the old Premises; and (d) the Base Rent per square foot for the new location shall be the same as that of the old location. Tenant shall not be obligated to accept a Rentable Area exceeding that of the old by more than ten percent (10%).

**12.24. Indemnification.** Tenant shall indemnify, defend and hold Landlord (and its members, Manager, officers, directors, shareholders, employees and agents) harmless from all liability, loss, damages, suits, claims, fees (including attorneys' fees) and costs arising from injuries or damages to persons or property in connection with any act taken pursuant to, or any default of Tenant under, this Lease.

**12.25. Security Measures.** Tenant acknowledges that: (a) the Base Monthly Rent does not include the cost of any security measures for any portion of the Building, (b) Landlord has no obligation to provide any such security measures, (c) Landlord has made no representation regarding the safety or security of the Building, and (d) Tenant will be solely responsible for providing any security it deems necessary to protect itself, its property, and its invitees in, on, or about the Building or Premises. If Landlord provides any security measures at any time, their cost shall be included in Operating Expenses, but Landlord will not be obligated to continue providing security for any time, Landlord may discontinue such service without notice and liability to Tenant, and Landlord will not be obligated to provide such measures with any particular standard of care. Tenant assumes all responsibility for the Tenant's security, safety, property, and invitees. Tenant releases Landlord from all claims for damage, loss, or injury to Tenant, its invitees, and/or to the personal property of Tenant and/or its invitees, even if such damage, loss, or injury is caused by or results from the criminal or negligent acts of third parties. Landlord shall have no duty to warn Tenant of any criminal acts or dangerous conduct that has occurred in or near the Building, regardless of Landlord's knowledge of such crimes or conduct.

**12.26. Warranties.** Each party warrants that it has the legal capacity to enter into this Lease, its execution has been duly approved and its obligations under this Lease do not violate any applicable law.

**12.27. Submission of Lease.** Submission of this Lease for examination or signature by the parties does not constitute an option or offer to lease the Premises on the terms in this Lease or a reservation of the Premises in Tenant's favor. This document is not effective as a lease or otherwise until signed and delivered by both Tenant and Landlord.

**12.28. Arbitration.**

**12.28.1.** ANY CONTROVERSY, DISPUTE OR CLAIM OF WHATSOEVER NATURE ARISING OUT OF, IN CONNECTION WITH, OR IN RELATION TO THE INTERPRETATION, PERFORMANCE OR BREACH OF THIS LEASE, INCLUDING ANY CLAIM BASED ON CONTRACT, TORT OR STATUTE, SHALL BE DETERMINED BY FINAL AND BINDING ARBITRATION CONDUCTED BEFORE A SINGLE ARBITRATOR AT A LOCATION DETERMINED BY THE ARBITRATOR IN SAN FRANCISCO, CALIFORNIA AND ADMINISTERED BY JAMS/ENDISPUTE ("JAMS"), OR IF JAMS SHALL NOT THEN EXIST, SUCH OTHER ORGANIZATION AS TO WHICH LANDLORD AND TENANT AGREE. IF LANDLORD AND TENANT ARE UNABLE TO SO AGREE WITHIN FIFTEEN (15) DAYS AFTER THE DISPUTE ARISES, THE ORGANIZATION SHALL BE SELECTED BY THE PRESIDING JUDGE OF THE SAN FRANCISCO SUPERIOR COURT OR HIS/HER DESIGNEE ON APPLICATION BY ANY PARTY TO THE DISPUTE. JUDGMENT ON ANY AWARD RENDERED BY THE ARBITRATOR MAY BE ENTERED BY ANY STATE OR FEDERAL COURT HAVING JURISDICTION THEREOF.

**12.28.2.** THE PROVISIONS OF THIS SECTION 12.28 SHALL NOT APPLY TO:

**a.** ANY UNLAWFUL DETAINER ACTION INSTITUTED BY LANDLORD AS THE RESULT OF A DEFAULT OR ALLEGED DEFAULT BY TENANT PURSUANT TO THIS LEASE.

**b.** ANY SPECIFIC CONTROVERSY, DISPUTE, QUESTION OR ISSUE AS TO WHICH THIS LEASE SPECIFICALLY PROVIDES ANOTHER METHOD OF DETERMINING SUCH CONTROVERSY, DISPUTE, QUESTION OR ISSUE AND PROVIDES THAT A DETERMINATION PURSUANT TO SUCH METHOD IS FINAL AND BINDING, UNLESS BOTH LANDLORD AND TENANT AGREE IN WRITING TO WAIVE SUCH PROCEDURE AND TO PROCEED INSTEAD PURSUANT TO THIS SECTION 12.28.

c. ANY REQUEST OR APPLICATION TO ANY STATE OR FEDERAL COURT HAVING JURISDICTION THEREOF FOR AN ORDER OR DECREE GRANTING ANY PROVISIONAL OR ANCILLARY REMEDY (SUCH AS A TEMPORARY RESTRAINING ORDER OR INJUNCTION) IN AID OF OR WITH RESPECT TO ANY RIGHT OR OBLIGATION OF EITHER PARTY TO THIS LEASE, AND ANY PRELIMINARY DETERMINATION OF THE UNDERLYING CONTROVERSY, DISPUTE, QUESTION OR ISSUE AS IS REQUIRED TO DETERMINE WHETHER TO GRANT THE RELIEF REQUESTED OR APPLIED FOR. A FINAL AND BINDING DETERMINATION OF SUCH UNDERLYING CONTROVERSY, DISPUTE, QUESTION OR ISSUE SHALL BE MADE BY AN ARBITRATION CONDUCTED PURSUANT TO THIS SECTION 12.28 AFTER AN APPROPRIATE TRANSFER OR REFERENCE TO JAMS ON MOTION OR APPLICATION OF EITHER PARTY HERETO. ANY ANCILLARY OR PROVISIONAL RELIEF THAT IS GRANTED PURSUANT TO THIS CLAUSE (C) SHALL CONTINUE IN EFFECT PENDING AN ARBITRATION DETERMINATION AND ENTRY OF JUDGMENT THEREON PURSUANT TO THIS SECTION 12.28.

d. EXERCISE OF ANY REMEDIES TO ENFORCE ANY JUDGMENT ENTERED BASED ON A DETERMINATION MADE BY ARBITRATION PURSUANT TO THIS SECTION 12.28.

**12.28.3.** ANY ARBITRATION PURSUANT TO THIS SECTION 12.28 SHALL BE CONDUCTED IN ACCORDANCE WITH THE STREAMLINED ARBITRATION RULES AND PROCEDURES OF JAMS (THE "RULES"), REGARDLESS OF THE AMOUNT IN DISPUTE, EXCEPT THAT, WHETHER SUCH RULES SO PROVIDE:

a. THERE SHALL BE A PRE-HEARING CONFERENCE PRIOR TO THE ARBITRATION HEARING TO REACH AGREEMENT ON PROCEDURAL MATTERS, ARRANGE FOR THE EXCHANGE OF INFORMATION, OBTAIN STIPULATIONS AND ATTEMPT TO NARROW THE ISSUES TO BE ARBITRATED.

b. THERE SHALL BE NO MEDIATION OR SETTLEMENT CONFERENCES UNLESS ALL PARTIES AGREE THERETO IN WRITING.

c. DISCOVERY SHALL BE LIMITED TO THAT PERMITTED BY THE RULES, AND "GOOD CAUSE" WHERE A CONDITION TO DISCOVERY SHALL BE STRICTLY CONSTRUED.

d. ALL MOTIONS SHALL BE IN LETTER FORM AND HEARINGS THEREON SHALL BE BY CONFERENCE TELEPHONE CALLS UNLESS THE ARBITRATOR ORDERS OTHERWISE.

e. HEARINGS SHALL REQUIRE ONLY TWENTY (20) DAYS PRIOR WRITTEN NOTICE.

f. ALL NOTICES IN CONNECTION WITH ANY ARBITRATION MAY BE SERVED IN ANY MANNER PERMITTED BY SECTION 12.6 ABOVE.

g. FEES AND COSTS PAID OR PAYABLE TO JAMS SHALL BE INCLUDED IN "COSTS" FOR PURPOSES OF SECTION 12.3 ABOVE. THE ARBITRATOR SHALL SPECIFICALLY HAVE THE POWER TO AWARD TO THE PREVAILING PARTY SUCH PARTY'S REASONABLE EXPENSES INCURRED IN SUCH PROCEEDING, EXCEPT AS OTHERWISE PROVIDED IN SECTION 12.28.4 BELOW. REASONABLE EXPENSES SHALL INCLUDE ATTORNEYS' FEES AND FEES AND COSTS PAID OR PAYABLE TO JAMS.

h. THE SELECTION OF THE ARBITRATOR SHALL BE IN ACCORDANCE WITH THE THEN-EXISTING RULES OF JAMS, PROVIDED THAT LANDLORD AND TENANT MAY AGREE TO EXTEND THE PERIOD OF TIME BY WHICH AN ARBITRATOR MUST BE SELECTED BY THEM. IF THE PARTIES ARE UNABLE TO AGREE ON AN ARBITRATOR WITHIN THIRTY (30) DAYS AFTER SUBMISSION OF A MATTER TO ARBITRATION, THE ARBITRATOR SHALL BE APPOINTED BY THE ADMINISTRATOR OF THE SAN FRANCISCO OFFICE OF JAMS OR ITS SUCCESSOR, IF ANY, AS PROVIDED IN THE RULES.

i. THE ARBITRATION AWARD SHALL INCLUDE FINDINGS OF FACT AND CONCLUSIONS OF LAW AND SHALL NOT BE LIMITED AS TO AMOUNT.

**12.28.4.** AS SOON AS PRACTICABLE AFTER SELECTION OF THE ARBITRATOR, THE ARBITRATOR OR HIS/HER DESIGNATED REPRESENTATIVE SHALL DETERMINE A REASONABLE ESTIMATE OF ANTICIPATED FEES AND COSTS OF THE ARBITRATOR AND SHALL DELIVER A STATEMENT TO EACH PARTY SETTING FORTH THAT PARTY'S PRO RATA SHARE OF SUCH FEES AND COSTS. EACH PARTY SHALL DEPOSIT ITS PRO RATA SHARE OF SUCH FEES AND COSTS WITH THE ARBITRATOR WITHIN TEN (10) DAYS AFTER RECEIPT OF SUCH STATEMENT. IF EITHER PARTY FAILS TO MAKE A REQUIRED DEPOSIT HEREUNDER, THE OTHER PARTY MAY MAKE SUCH DEPOSIT ON BEHALF OF THE DEFAULTING PARTY AND THE AMOUNT OF SUCH DEPOSIT, PLUS INTEREST THEREON AT DEFAULT RATE, SHALL BE AWARDED AGAINST THE DEFAULTING PARTY BY THE ARBITRATOR IN MAKING ANY FINAL ARBITRATION AWARD WITHOUT REGARD TO WHETHER THE DEFAULTING PARTY IS THE PREVAILING PARTY IN THE ARBITRATION PURSUANT TO THIS SECTION. IF TENANT FAILS TO MAKE A REQUIRED DEPOSIT HEREUNDER, LANDLORD MAY MAKE SUCH

DEPOSIT ON BEHALF OF TENANT AND THE AMOUNT OF SUCH DEPOSIT, PLUS INTEREST THEREON AT THE DEFAULT RATE FROM DATE OF DEPOSIT TO DATE OF REPAYMENT, SHALL BE ADDITIONAL RENT PURSUANT TO THIS LEASE PAYABLE BY TENANT WITHIN TEN (10) DAYS AFTER TENANT'S RECEIPT OF LANDLORD'S INVOICE THEREFOR.

**12.28.5.** THE ARBITRATOR SHALL HAVE NO AUTHORITY OR POWER TO AWARD ANY PARTY ANY EXEMPLARY OR PUNITIVE DAMAGES.

**12.28.6.** ANY GUARANTY OF TENANT'S OBLIGATIONS PURSUANT TO THIS LEASE, WHETHER PROVIDED AT THE EXECUTION OF THIS LEASE OR THEREAFTER, SHALL BE SUBJECT TO THE PROVISIONS OF THIS SECTION 12.28, WHETHER EXPRESSLY SO STATED THEREIN.

NOTICE: BY INITIALING IN THE SPACE BELOW, YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THIS SECTION 12.28 DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY THE LAW OF THE STATE IN WHICH THE PREMISES IS LOCATED, AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN A COURT OR JURY TRIAL. BY INITIALING IN THE SPACE BELOW, YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS SUCH RIGHTS ARE SPECIFICALLY INCLUDED IN THIS SECTION 12.28. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE LAW OF THE STATE IN WHICH THE PREMISES IS LOCATED. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY.

WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THIS SECTION 12.28 TO NEUTRAL ARBITRATION.

Landlord: \_\_\_\_\_ Tenant: \_\_\_\_\_

**12.29. Trial Without Jury.** LANDLORD AND TENANT EACH ACKNOWLEDGES THAT IT HAS HAD THE ADVICE OF COUNSEL OF ITS CHOICE WITH RESPECT TO ITS RIGHTS TO TRIAL BY JURY UNDER THE CONSTITUTIONS OF THE UNITED STATES AND THE STATE. TO THE EXTENT PERMITTED BY APPLICABLE LAW, EACH PARTY EXPRESSLY AND KNOWINGLY WAIVES AND RELEASES ALL SUCH RIGHTS TO TRIAL BY JURY IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM BROUGHT BY EITHER PARTY AGAINST THE OTHER ON ANY MATTERS ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS LEASE, TENANT'S USE OR OCCUPANCY OF THE PREMISES, AND/OR ANY CLAIM FOR INJURY OR DAMAGE.

Landlord: \_\_\_\_\_ Tenant: \_\_\_\_\_

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↓  
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↓ Signatures on next page ...

Intending to be legally bound, the parties have signed this Lease as of the date first set forth above.

**"Landlord"**

PMB SANTA MARIA 166 S. PALISADE LLC,  
a Delaware limited liability company

By: PMB Acquisition #1 Partners LLC,  
a Delaware limited liability company,  
Sole Member

By: PMB Founders LLC,  
a California limited liability company,  
Administrative Member

By: Pacific Medical Buildings LLC  
a California limited liability company,  
Manager

By: PMB, Inc.,  
a California corporation,  
Manger

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

**"Tenant"**

COUNTY OF SANTA BARBARA

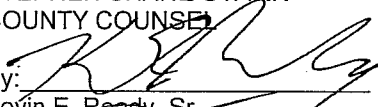
ATTEST:  
MICHAEL F. BROWN  
CLERK OF THE BOARD

By: \_\_\_\_\_  
Chair, Board of Supervisors

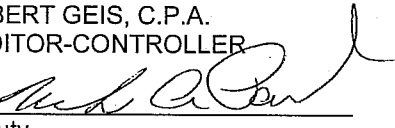
By: \_\_\_\_\_

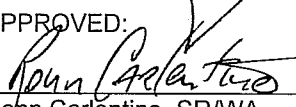
Date: \_\_\_\_\_

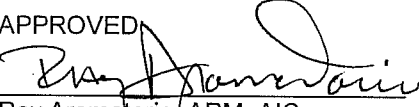
APPROVED AS TO FORM:  
STEPHEN SHANE STARK  
COUNTY COUNSEL

By:   
Kevin E. Ready, Sr.  
Senior Deputy

APPROVED AS TO FORM:  
ROBERT GEIS, C.P.A.  
AUDITOR-CONTROLLER

By:   
Deputy

APPROVED:  
  
Ronn Carlentine, SR/WA  
Real Property Manager

APPROVED:  
  
Ray Aromatorio, ARM, AIC  
Risk Program Administrator

**LIST OF EXHIBITS**

- Exhibit A:**.....Definitions.
- Exhibit B:**.....Premises.
- Exhibit C:**.....Site Plan.
- Exhibit D:**.....Workletter on Leasehold Improvements.
- Exhibit E:**.....Tenant Improvement Schedule.
- Exhibit F:**.....Building Rules & Regulations.
- Exhibit G:**.....Guaranty. N/A
- Exhibit H:**.....Use Prohibitions
- Exhibit I:**.....Ethical and Religious Directives



## Exhibit A DEFINITIONS

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**"Actual Operating Expenses"** – with respect to any calendar year, the actual Operating Expenses for the Building for that year, as determined in accordance with generally accepted accounting principles.

**"Adjustment Date"** – January 1 of each year commencing with January 1, 2009, which first adjustment shall be no earlier than six (6) months after the Commencement Date.

**"Base Figure"** – Initially, the figure published most recently by the Index before the Commencement Date; Landlord shall insert this figure in Summary Section 24as soon as it is available. Thereafter, the Base Figure is the figure published most recently before the Adjustment Date.

**"Base Rental Rate"** – the basic monthly rent for the Premises in 21.

**"Base Rent"** – the basic monthly rent for the Premises. It is the product of the Base Rental Rate and the Rentable Area of the Premises. This figure will be shown in Summary Section 22.

**"Building"** – the professional office building in which the Premises are located, with all parking, landscaping and other improvements used in connection therewith.

**"Commencement Date"** – the date on which Tenant's occupancy actually begins as set forth in Summary Section 17.

**"Control"** – (including the correlates of "Controlled" and "Controlling") the possession, directly or indirectly, including through one or more intermediaries, of the power to direct or cause the direction of Tenant's management and policies through the ownership or control of voting securities, partnership interests, or other equity interests or otherwise.

**"County"** – the County in which the Premises is located.

**"Estimated Operating Expenses"** – for any calendar year, Landlord's estimate of the Operating Expenses to be accrued during such year.

**"Final Prices"** – the final cost of Tenant Improvements described in the Working Drawings. The Final Prices shall become part of **Exhibit E**.

**"Final Suite Design"** – a design that indicates the floor layout of Tenant's suite including partitions, electrical outlets, doors, casework, and plumbing fixtures. This Final Suite Design is approved by Tenant in writing and becomes the design on which Working Drawings are based. The Final Suite Design becomes part of **Exhibit E**, and authorizes Landlord to proceed with Working Drawings.

**"Ground Lease"** – the ground lease of the land from Ground Lessor to Landlord dated February 17, 2004, a copy of which is available for inspection in Landlord's office.

**"Holiday"** – New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving and Christmas (or any day set aside to celebrate such holidays), and additional days now or later designated as holidays, similar to such stated holidays in the scope of their observance, by the USA or the State.

**"Index"** – the local/regional Consumer Price Index for Urban Consumers Subgroup "All Items" (Base Year 1982/84 = 100) selected by Landlord, which was published and in effect on the first day of the month preceding the Adjustment Date in question. If the Index shall no longer be published, Landlord shall substitute another generally recognized as authoritative.

**"Management of the Building"** – promoting and renting the Building after initial lease-up; employing, training, paying, supervising, and discharging Building maintenance, security and operational personnel; establishing and supervising service contracts for the Building; supervising all maintenance and repair of the Building; monitoring all necessary insurance policies; collecting rents; paying expenses; maintaining records and providing monthly and annual reports regarding Building operation to Landlord; and insuring that the Building and all tenants comply with all legal requirements.

**"Medical Waste"** – all medical waste as defined by California Health and Safety Code § 117690, as amended or supplemented. Notwithstanding the above, if "Medical Waste" is defined in the laws of the State, such laws shall govern over this Section.

**"Mold"** – mold, mildew, fungus or other potentially dangerous organisms.

**"Mold Condition"** – the presence or suspected presence of Mold or any condition(s) that reasonably can be expected to give rise to or indicate the presence of Mold, including observed or suspected instances of water damage

or intrusion, the presence of wet or damp wood, cellular wallboard, floor coverings or other materials, inappropriate climate control, discoloration of walls, ceilings or floors, complaints of respiratory ailment or eye irritation by Tenant's employees or any other occupants or invitees in the Premises, or any notice from a governmental agency of complaints regarding the indoor air quality at the Premises.

**"Mold Inspector"** — an industrial hygienist certified by the American Board of Industrial Hygienists ("CIH") or an otherwise qualified mold consultant selected by or otherwise acceptable to Landlord.

**"Mold Remediation Requirements"** — the relevant provisions of the document Mold Remediation in Schools and Commercial Buildings (EPA 402-K-01-001, March 2001), published by the U.S. Environmental Protection Agency, as may be amended or revised from time to time, or any other applicable, legally binding federal state or local laws, regulatory standards or guidelines.

**"Mortgage"** — with respect to Landlord, a mortgage, deed of trust, or other encumbrance recognized in the State at the time it attaches as a contractual security interest in real property encumbering Landlord's leasehold interest in the Building and/or Land, and/or any part thereof, which may be deemed under applicable law a personal property interest.

**"Mortgagee"** — the mortgagee, beneficiary, or the like, of a Mortgage.

**"Operating Expenses"** — all expenses, costs and disbursements of every kind and nature incurred or paid in connection with the ownership and operation of the Building and Land, computed on the accrual basis, except as expressly excluded. Operating Expenses shall include the following:

- Wages and salaries (including payroll taxes, worker's compensation, disability insurance and all fringe benefits) of all employees directly engaged in the operation, management, maintenance, repair or security of the Building, and contract costs of independent contractors engaged for such services;
- Cost of all supplies, fuels and materials used in the operation, repair and maintenance of the Building including all sales, use and excise taxes on such supplies, fuels, etc.;
- Cost of all utilities for the Building, including the cost of water and power for heating, lighting, air conditioning and ventilating (excluding such costs billed to specific tenants);
- Cost of all maintenance and service agreements for the Building and the equipment therein, including security service, window cleaning, elevator maintenance, janitorial service, trash removal, plumbing, roofing service and medical waste disposal;
- Cost of all insurance against such risks and in amounts as determined by Landlord are reasonably necessary or advisable including casualty, rental abatement, liability, workers' compensation, earthquake, flood, fire, extended coverage and boiler insurance applicable to the Building and Landlord's personal property used in connection therewith;
- All taxes, assessments and governmental charges, whether federal, state, school, county or municipal, and whether by taxing districts or authorities presently taxing the Building and the Land or by others subsequently created or otherwise, and any other taxes and assessments (including possessory interest taxes or the like) attributable to the Premises, Building and the Land or their operation, whether directly paid by Landlord, excluding however, federal and state taxes on income, death taxes, excess profit taxes, franchise taxes or any taxes imposed on, or measured by, the income of Landlord from the operation of the Building or imposed in connection with any change of ownership of the Building or the Land, and further excluding taxes which Tenants are bound to directly or indirectly discharge on an individual basis, including ad valorem taxes on their personal property, on Tenant-owned trade fixtures, on Tenant-constructed leasehold improvements, and on building-owned suite improvements requested by Tenant to the extent such suite improvements exceed building standard allowances;
- Landlord's LLC gross receipts fee/tax;
- Cost of all repairs and general maintenance (less any reimbursement received for such services from insurance companies, individual tenants and similar sources) of the Building, including building systems and appurtenances thereto and normal repair and replacement of worn out equipment, facilities and installations, repairs to roof and re-roofing;
- The Property Management Fee;
- Accounting, asset management, legal, and other professional fees and costs applicable to the Building;
- Reasonable additions from time to time to a reserve established for replacement of improvements, machinery, equipment and fixtures for servicing the Building;
- Costs of painting and other resurfacing of the exterior or the public or common area of the Building and the costs of maintaining and repairing the sidewalks, landscaping and other common areas of the Building;

- Costs of any capital improvements made by Landlord to the Building or capital assets acquired by Landlord that are required under any governmental law, regulation or insurance requirement under which the Building was not required to comply therewith at commencement of the Lease Term, such cost or allocable portion to be amortized over the useful life thereof;
- Costs of any capital improvements made by Landlord to the Building or capital assets required by Landlord for the protection of the health and safety of the occupants of the Building or that reduce other Operating Expenses, such costs or allocable portion thereof to be amortized over the useful life thereof;
- Cost of furniture, draperies, carpeting, landscaping and other customary and ordinary items of personal property (excluding paintings and sculptures, and other works of art) provided by Landlord for use in common areas of the Building, such costs to be amortized over the useful life thereof;
- Any such expenses and cost resulting from substitution of work, labor, materials, resulting from compliance with any governmental laws, rules regulations or orders applicable to the Building or any part thereof;
- Parking lot maintenance and repair, including slurry seal and striping; and
- Any other expenses which, in accordance with generally accepted accounting principles, would be treated as Operating Expenses by landlords of comparable buildings.

Operating Expenses shall exclude: (a) the cost of any service included in Management of the Building, other than the Management Fee; (b) special costs recoverable from specific tenants (e.g., costs of redecorating, special cleaning, or other services not provided on a regular or periodic basis to all tenants of the Building); (c) wages, salaries or fees paid to executive personnel of Landlord; (d) the cost of any repair or replacement item which, by standard accounting practice, should be capitalized; (e) any charge for interest, depreciation, ground rent or rents (except as provided above) or (f) any charge for Landlord's income tax, excess profit taxes, franchise taxes or similar taxes on Landlord's business (excluding Landlord's LLC gross receipts fee/tax, which will be included in Operating Expenses).

**"Premises"** – the medical office space which shall be occupied by Tenant. The approximate location, size and configuration is described in **Exhibit B**.

**"Property Management Fee"** – the fee paid for Management of the Building.

**"Property Taxes"** – all real property taxes or assessments (and any tax or assessment to the extent levied or assessed in lieu thereof) levied or assessed against the Premises, Building or Land including all taxes (other than personal or corporate income taxes measured by Landlord's net income from all sources), possessory interest taxes, assessments (including all assessments for public improvements, services or benefits levied after the Commencement Date, irrespective when commenced or completed), excises, levies, business taxes, license, permit, inspection and other authorization fees, transit development fees, assessments or charges for housing funds, service payments in lieu of taxes and any other fees or charges of any kind which are assessed, levied, charged, confirmed or imposed by any public authority: (a) on or measured by the rental payable hereunder, including any gross receipt or excise tax levied by any governmental body on the receipt of such rental; (b) on the development, possession, leasing, operation, management, maintenance, alteration, repair, use or occupancy of the Building, Land, or Premises or any portion thereof, whether paid directly by Landlord; or (c) on this transaction or any document to which Tenant is a party creating or transferring an interest or an estate in the Premises. If it shall not be lawful for Tenant so to reimburse Landlord, the monthly Base Rent shall be revised to net Landlord the same net rental after imposition of any such tax on Landlord as would have been payable to Landlord before its imposition.

**"Qualified Entity"** – a partnership, LLC, corporation or other business organization in which at least a majority of the equity owners are Qualified Persons.

**"Qualified Person"** – a member of the medical staff of Hospital or its successor acute care hospital.

**"Rentable/Usable Ratio"** – the estimated Rentable Area divided by the Usable Area of the Building. The Rentable/Usable Ratio is stated in Summary Section 14. The Rentable/Usable Ratio is multiplied by the Tenant's Usable Area to calculate Rentable Area for which Tenant pays rent.

**"State"** – the State in which the Premises is located.

**"Substantial Completion"** – the date on which Landlord has completed its work on the Premises and it is ready to be released to Tenant, including completion of the Tenant Improvements to be completed by Landlord, which may be evidenced by delivery to Tenant of a Certificate of Occupancy of the Premises (the **"Certificate"**) obtained by Landlord's general contractor (the **"Contractor"**) which Certificate shall be binding and conclusive on Tenant in the absence of bad faith.

**"Suite Design Completion Date"** – the date by which Tenant shall give written approval of the Final Suite Design attached as part of **Exhibit E**.

**"Tenant Improvements"** – the work scheduled for construction described in Section 5.1 above and **Exhibit E**.

**"Tenant Party"** – any Person for whom Tenant is responsible, including its agents, employees, contractors, or other third parties entering the Premises at Tenant's request or invitation, express or implied.

**"Tenant's Percentage Share"** – obtained by dividing the Usable Area of the Premises by the total Usable Area of the Building, regardless of the actual occupancy of the Building, and multiplying such quotient by one hundred. The approximate percentage is set forth in Summary Section 25, with the exact percentage to be determined on completion of the Final Suite Design and set forth by Landlord in Summary Section 25.

**"Usable Area"** – as defined by American National Standard Z65-1-1996, the Usable Area of an office shall be computed by measuring to the finished surface of the office side of corridor and other permanent walls, to the center of partitions that separate the office from adjoining Usable Areas, and to the inside finished surface of the dominant portion of the permanent outer building walls. No deductions shall be made for columns and projections necessary to the Building. The Usable Area of a floor shall be equal to the sum of all Usable Areas on that floor. The actual Usable Area expressed in square footage of the Premises shall be the area as shown on the Final Suite Design prepared by Landlord's architect and reasonably approved by Tenant, attached hereto as part of **Exhibit E**.

**"Working Drawings"** – drawings that include a dimension plan that locates all interior partitions, and a general plan that locates telephone requirements, plumbing locations, detailed construction drawings, reflected ceiling with lighting, cabinet elevations and an interior finish schedule. The Working Drawings become part of **Exhibit E**.

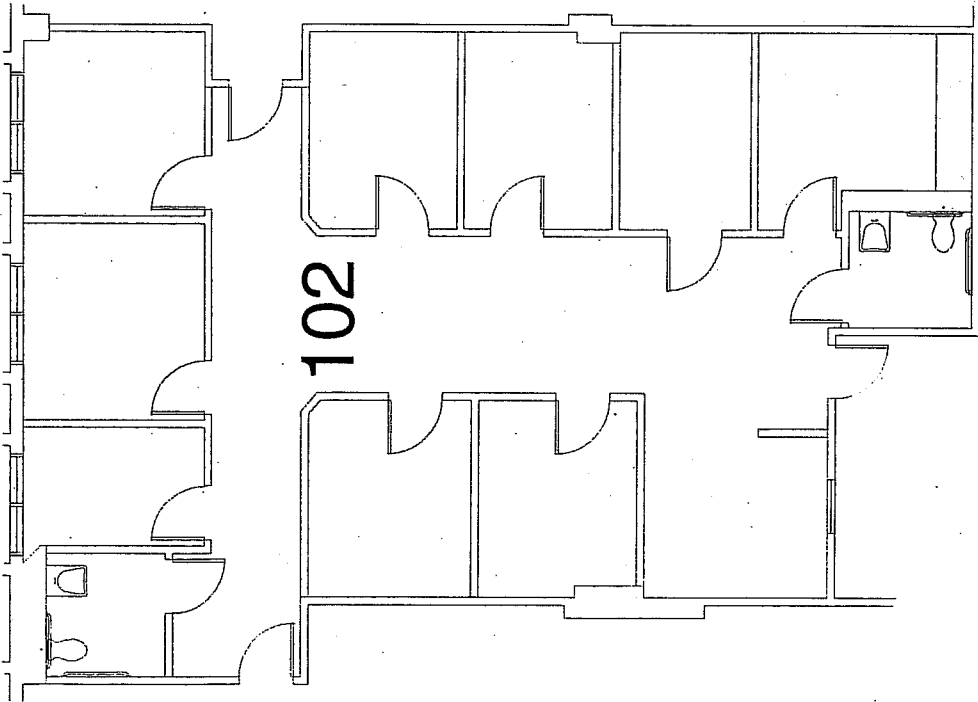
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## Exhibit B PREMISES

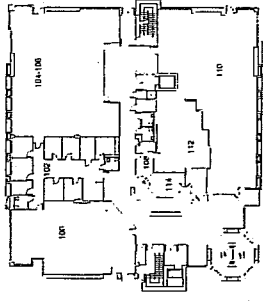
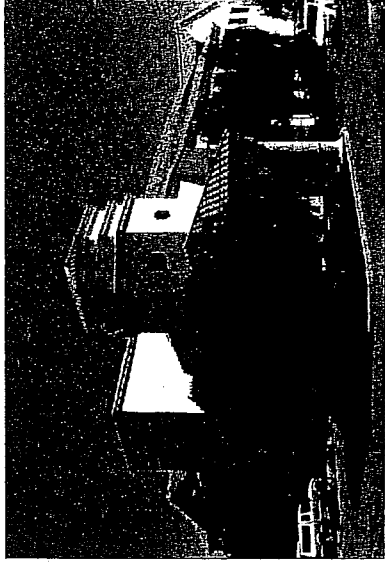
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See attached drawing (incorporated by reference) for approximate size, location and configuration of the Premises.

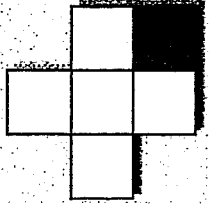
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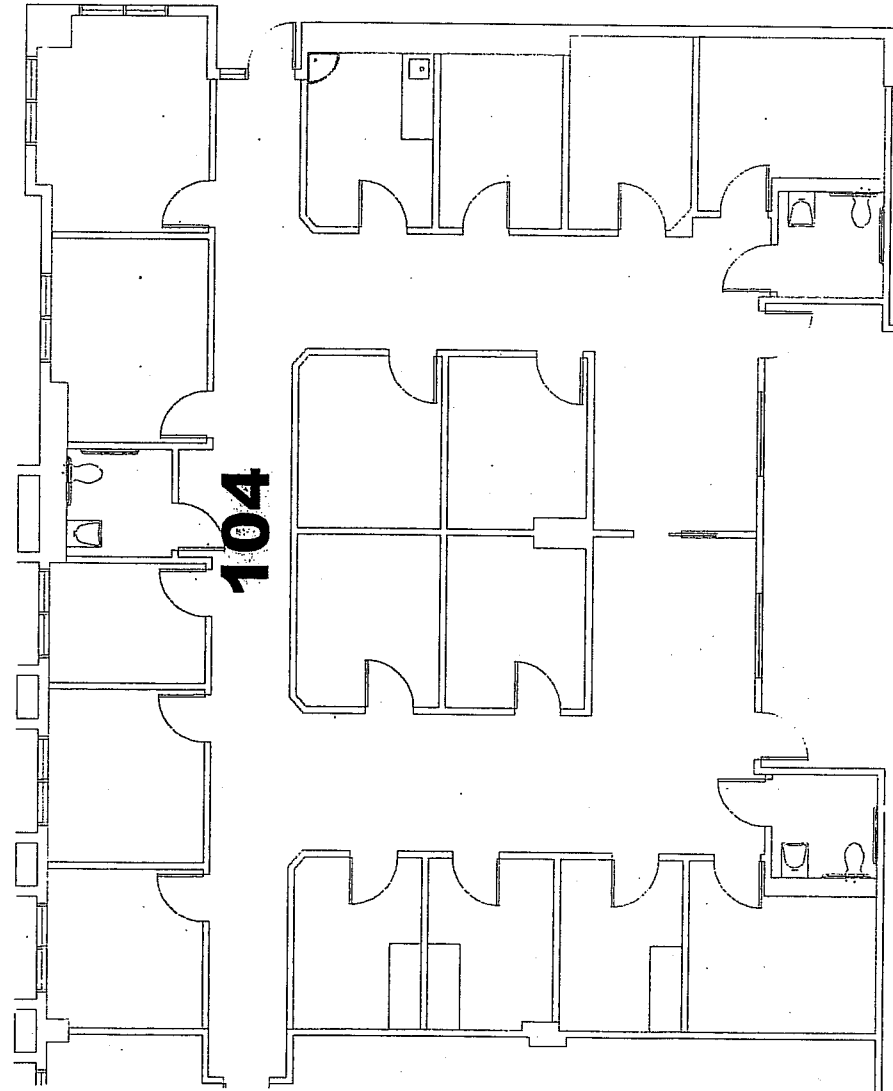
ENLARGED PLAN



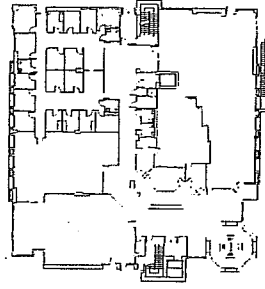
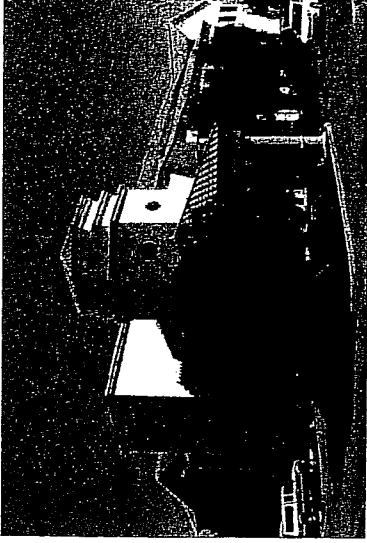
KEY PLAN



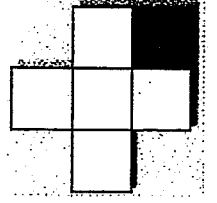
PACIFIC MEDICAL BUILDINGS  
 12348 HIGH BLUFF DRIVE, SUITE 210  
 SAN DIEGO, CALIFORNIA 92130



ENLARGED PLAN



KEY PLAN



PACIFIC MEDICAL BUILDINGS  
 12348 HIGH BLUFF DRIVE, SUITE 210  
 SAN DIEGO, CALIFORNIA 92130

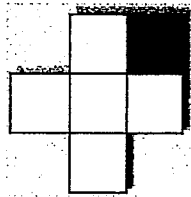
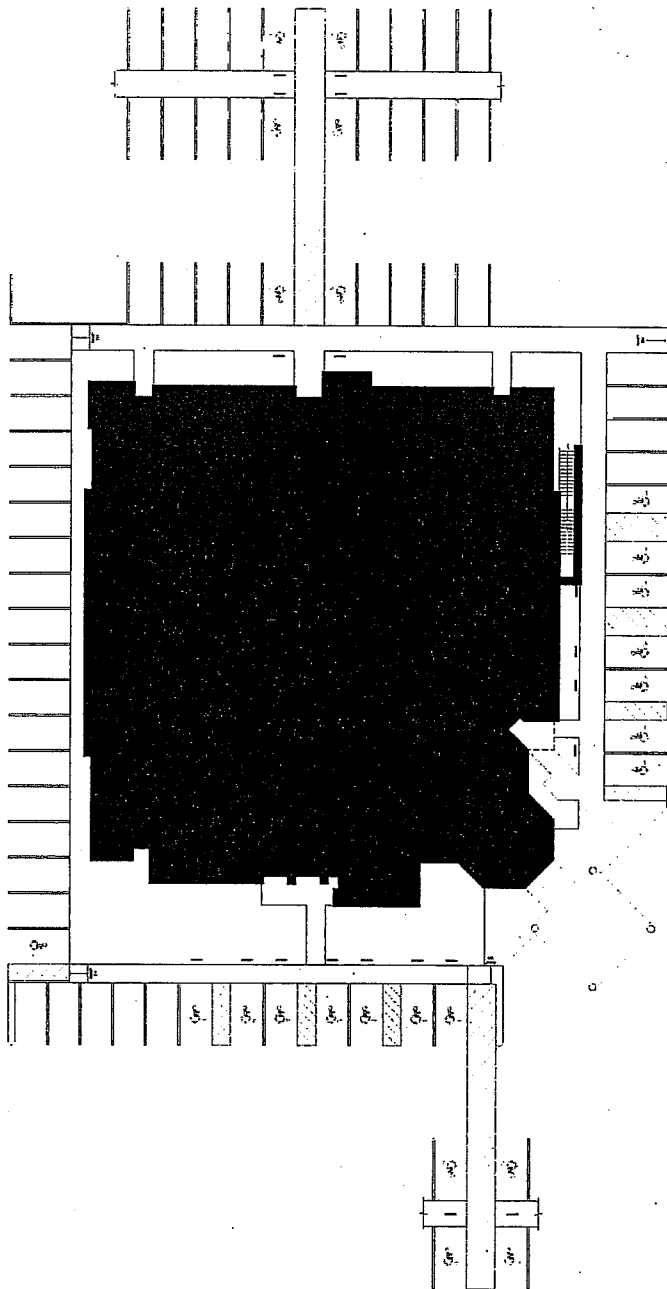
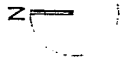
# Exhibit C SITE PLAN

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See attached Site Plan (incorporated by reference).

..... end exhibit





114 - MARIAN HANCOCK MOB  
116 SOUTH PALISADE DRIVE  
SANTA MARIA, CA 93454

**PACIFIC MEDICAL BUILDINGS**

12348 HIGH BLUFF DRIVE, SUITE 210  
SAN DIEGO, CALIFORNIA 92130

## **Exhibit D**

### **WORKLETTER ON LEASEHOLD IMPROVEMENTS**

---

This Workletter defines the Building standard construction specifications. All suite design and construction work must be performed by Landlord.

The following list of items describes the standard features that are typically required to construct Tenant's suite. This list is not all-inclusive and other specific features may be required by Landlord or Tenant.

The Lease includes a Tenant Improvement Allowance set forth in Summary Section 27. Landlord shall install Tenant Improvements in compliance with building plans and specifications, Tenant Improvements Schedule, and Final Plan for the Premises. If such costs exceed the Tenant Improvement Allowance, Tenant shall pay Landlord the amount of such excess before construction of the Tenant Improvements. If any portion of this allowance is not used in the build-out, the balance shall be forfeited.

#### **SUBSTITUTIONS.**

Landlord reserves the right to make substitutions of material of equivalent grade and quality if any specified material is not reasonably available and to make changes necessitated by conditions met during the course of construction.

#### **PAYMENT FOR SCHEDULED TENANT IMPROVEMENTS IN EXCESS OF TENANT IMPROVEMENT ALLOWANCE.**

In order for Tenant's suite construction to proceed, Tenant shall pay all sums due for costs of Tenant Improvements in excess of the Tenant Improvement Allowance to Landlord within five (5) days of signing the Final Suite Pricing. If start of construction is delayed as a result of Tenant's failure to perform, Tenant shall pay any increase in final costs for Tenant Improvements before commencement of construction of the Tenant Improvements.

#### **NON-SCHEDULED IMPROVEMENTS.**

If Tenant requires Landlord to make improvements not included in the Final Price Schedule, Tenant shall pay the full cost for such non-scheduled improvements at the start of construction.

TENANT APPROVES THE TERMS OF THIS WORKLETTER ON LEASEHOLD IMPROVEMENTS BY SIGNING BELOW:

\_\_\_\_\_  
Tenant's Signature

### **TENANT IMPROVEMENTS SPECIFICATIONS**

#### **PARTITIONS**

Demising walls between suites are one hour rated, constructed full height to the structure above and is sound insulated with batt insulation. The bottom track is set in acoustical sealant. The top of the wall is firestopped.

Interior Suite partitions extend above the finish ceiling. Walls in the waiting rooms and one wall of doctor's office will receive vinyl wallcovering. All other walls will receive a paint finish.

Sound attenuation partitions extend above the finished ceiling and are to be fully insulated with sound attenuation blankets. These partitions are to be located at all walls around all exam rooms, doctor's office rooms, and all other patient treatment areas.

### **DOORS AND FRAMES**

- Suite Entry: 3' x 7' solid core plastic laminated finished door in a hollow metal frame with entry hardware and door closer, 2' x 7' sidelight, heavy-duty mortise lockset.
- Interior Doors: 3' x 7' flush, solid core with a hollow metal frame, finished with building standard plastic laminate and heavy-duty commercial cylindrical locksets.
- Rated Doors: (if needed) -- 3' x 7' flush, solid core with a "B" label fire rating and a 20-minute rated hollow metal frame.
- Hardware: Extra heavy duty commercial quality pulls and locksets, lever-type handles.

### **CASEWORK**

Casework is finished in plastic laminate. Casework is to be selected from building standard medical casework modules. All base cabinets are 24" deep except for the exam rooms that are 20" deep. Countertops are plastic laminate clad with 4" back-splash on sink cabinets.

Reception window is a 6' wide x 4' high opening with plastic laminate shelf.

### **FLOORCOVERING**

Carpet: 28 oz. level loop, direct glue-down installation with a 4" rubber base.  
Locations: Waiting room, suite corridors, business office.

Carpet: 32 oz. cut pile, direct glue down installation with a 4" rubber base.  
Location: Consultation rooms.

Sheet Vinyl  
Location: Toilet rooms.

Vinyl Composition Tile: Armstrong Excelon, 12" x 12", 1/8" gauge with a 4" top-set rubber base.  
Locations: Exam rooms, storage rooms or other areas per tenant's request.

### **WALL FINISHES**

Paint: All painted walls to receive one coat of primer and finish coat to cover using Lo-Glo Acrylic Enamel (low sheen).

### **CEILINGS**

Acoustical Ceilings: 2" x 4' Armstrong Second Look II, with a STC of 40 to 44.

### **ELECTRICAL**

Light Fixtures:

"A": 24" x 48" Fluorescent heat removal fixtures, with parabolic lens.  
Locations: Waiting rooms, conference room/library.

"B": 24" x 48" Fluorescent heat removal fixtures, with prismatic acrylic lens.

Locations: Exam rooms business offices, procedure rooms, staff lounge, corridors, nurses' stations, lab, consult/doctors offices, storage rooms.

"C": Incandescent fixture with drop opal glass lens.  
Locations: Storage.

"D": 24" wall-mounted fluorescent fixture above mirror.  
Location: Toilets.

Typical electrical outlets and switches are white, quiet type.

**HVAC**

Zoned, as required, within the suite and with direct digital controls, linear slot supply and return air diffusers.

Exhaust in toilet rooms

**PLUMBING**

Toilets: Tank type with an elongated bowl and split seat.  
Lavatories: Wall-hung with single lever faucet.  
Locations: Handicapped toilets

Sinks: Stainless steel single compartment with single lever faucet to be set into 20" deep countertop in all exam rooms.

Stainless steel single compartment sink with wrist action controls and gooseneck faucet to be used in 24" D. casework.

Locations: Labs, nurses' stations, minor surgeries, minor treatment rooms, staff lounges, cast rooms, darkrooms.

**MISCELLANEOUS**

Toilets: Grab bars, mirror, toilet paper dispenser, soap dispenser, towel dispenser, seat cover dispenser, waste disposal container.

Exam rooms: Double coat hook, chart rack.

..... end exhibit

## Exhibit E TENANT IMPROVEMENT SCHEDULE

*(To be completed when Tenant has approved the Final Suite Design, the Working Drawings, and the Final Prices for the Premises.)*

Subject to the provisions of the Lease, Landlord and Tenant agree that the following improvements shall be made to the Premises by Landlord, or Landlord's Contractor, in accordance with Tenant's approved Final Suite Design, Working Drawings and Final Prices of the Tenant Improvements attached hereto, and Section 5.1 of the Lease.

Item Description	Price	\$/Sq Ft	Total
Total Cost of Improvements			\$ _____
Amount to be paid by Allowance			(\$ _____)
Over/Under Allowance			\$ _____
Sales Tax (if applicable)			\$ _____
<b>Amount to be paid by Tenant</b>			<b>\$ _____</b>

..... end exhibit

## Exhibit F

### BUILDING RULES & REGULATIONS

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1. The entry passages, elevators and stairways may be used for ingress and egress only.
2. Tenant shall not cover or obstruct space for admitting natural light into any public area of the Building, except as approved by Landlord.
3. Toilets and other like apparatus shall be used only for the purpose for which they were constructed. Tenant shall pay all damage from misuse.
4. Landlord reserves the right to determine the number of letters allowed for Tenant on any directory Landlord maintains.
5. Tenant shall not use or display any sign, advertisement, notice, etc. in the Building (except on its office doors and then only as approved in writing by Landlord). If Tenant violates this rule, Landlord may remove the violation without liability and may charge to Tenant all costs and expenses incurred in doing so.
6. Tenant shall not throw, or permit to be thrown, anything out of windows or doors or down passages or elsewhere in the Building, or bring or keep pets or other animals therein, or commit or make any indecent use of the Premises or the Building or obstruct, injure, annoy or interfere with other tenants or those having business with them, or affect any insurance rate on the Building or violate any provision or any insurance policy on the Building.
7. Tenant's furniture, supplies and equipment shall be delivered only at times designated by Landlord.
8. Tenant shall not permit cleaning by any person other than employees of the Building or persons approved by Landlord.
9. Blinds of the quality, type, design and color designated by Landlord shall be used on all windows. All curtains, shades, screens and other fixtures shall be of a quality, type, design and color, and attached in a manner, approved by Landlord.
10. Landlord will furnish Tenant with keys for the Premises. If Landlord furnishes Tenant with keys to the lobby door of the Building, Tenant shall lock the lobby door immediately on entering and leaving the Building during such hours as the Building is closed, and Tenant shall be responsible for all damage and injury to persons or property resulting from Tenant's neglecting to lock said door as aforesaid. All such keys in Tenant's possession or known by Tenant to be in existence shall be delivered to Landlord at the termination of this Lease. Tenant shall not place any additional lock on any door to the Premises or elsewhere in the Building, and doors leading to the corridors or main halls shall be kept closed at all times except as they may be used for ingress and egress.
11. The Premises shall not be defaced in any way.
12. For the general welfare of all tenants and security of the Building, Landlord may deny entry to any person entering and leaving the Building on Saturdays, Sundays or holidays, and on other days between 7:00 p.m. and 7:00 a.m.
13. No bicycles or vehicles of any kind shall be brought into or kept in or about the Premises or the lobby or halls of the Building, and no cooking shall be done or permitted by Tenant on the Premises. Tenant shall not cause or permit any unusual or objectionable odors to be produced on or emanate from the Premises.
14. Unless specifically authorized by Landlord, employees of Landlord shall not perform, nor be asked to perform, work other than their regularly assigned duties.
15. Landlord shall have the right to prohibit any advertising by Tenant that, in Landlord's opinion, tends to impair the reputation of the Building or its desirability as a medical office building and, on written notice from Landlord, Tenant shall promptly discontinue such advertising.
16. Canvassing, soliciting and peddling in the Building is prohibited and Tenant shall cooperate to prevent them.

17. All parking regulations established from time to time by Landlord or Ground Lessor shall be obeyed.
18. Tenant shall not place a load on any floor of the Premises exceeding 50 lb. per square foot ("PSF") without Landlord's written approval. Landlord reserves the right to prescribe the weight and position of all safes, heavy equipment, file systems, etc. Informational safety note: Contractor's floor load specifications for this building provide an 80 PSF live load plus 20 PSF partition load. The 50 PSF is a precautionary limit established by Landlord and agreed to by Tenant. Landlord will not unreasonably withhold permission for Tenant to place a live floor load up to 80 PSF.
19. Tenant shall not install or use any air conditioning or heating device or system other than provided by Landlord.
20. Tenant shall comply with all methods and procedures for disposal of Medical Waste as described in California Health and Safety Code §§ 117600 et seq. (or if the Premises are located outside California, then any applicable State law) and any applicable law, and further shall comply with methods and procedures for handling and disposing of Medical Waste that may be enacted from time to time by the registered hazardous waste hauler retained to dispose of such Medical Waste.

\_\_\_\_\_  
Tenant's Initials

\_\_\_\_\_  
Landlord's Initials

..... end exhibit

**Exhibit G  
GUARANTY  
(N/A)**

---

..... *end exhibit*



## Exhibit H USE PROHIBITIONS

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*(THIS IS A REPRODUCTION OF EXHIBIT C OF THE GROUND LEASE.)*

The Property shall not be used for the purpose of providing any services competitive with those offered at Hospital ("**Prohibited Competitive Services**"), including:

1. Acute inpatient care;
2. Inpatient skilled nursing facility/transitional care services;
3. Inpatient sub-acute services;
4. Invasive cardiology (including cardiac physiology and cardiac catheterization);
5. Inpatient surgery;
6. Outpatient surgery center;
7. Occupational medicine;
8. Urgent care/emergency services;
9. Free-standing diagnostic imaging center;
10. Reference laboratory;
11. Gastroenterology laboratory;
12. Radiation therapy;
13. Pharmacy;
14. Blood draw station;
15. Anatomic pathology; or
16. Any other inpatient service or new medical procedure or modality, whether offered at or by the Hospital, but not identified above.

If any of the following is, at the time in question, incidental to and routinely performed as part of a physician's primary medical practice for the physician's patients and not offered to the general public (including solicitation of referrals from other physicians or providers for such service), it will not be considered a Prohibited Competitive Service:

17. Outpatient dialysis;
18. Outpatient surgery for procedures routinely performed in a physician's office;
19. Diagnostic imaging (including CT, nuclear medicine, mammography, and ultrasound);
20. Diagnostic laboratory (i.e., basic chemistries);
21. Diagnostic cardiology;
22. Outpatient infusion/chemotherapy services;
23. Flexible sigmoidoscopy procedures;
24. Physical & occupational therapy;
25. Speech therapy;
26. Neurodiagnostics (including neurology and audiology);
27. Pulmonary function;
28. Respiratory care services;
29. Perinatology/antepartum services;
30. Blood draw routinely performed in a physician's office.
31. Non-invasive vascular diagnostic services; or
32. Any other healthcare outpatient service not identified above, provided it has become established at such time as the standard of care for services in a medical office building setting taking into account the medical specialty, if any, of the physician practice in question.

..... end exhibit

# Exhibit I DIRECTIVES

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*(THIS IS A REPRODUCTION OF EXHIBIT G OF THE GROUND LEASE.)*

See attached Ethical and Religious Directives for Catholic Health Care Services, incorporated by reference.

..... end exhibit

# Ethical and Religious Directives for Catholic Health Care Services

Fourth Edition

UNITED STATES CONFERENCE OF CATHOLIC BISHOPS

This fourth edition of the *Ethical and Religious Directives for Catholic Health Care Services* was developed by the Committee on Doctrine of the National Conference of Catholic Bishops and approved as the national code by the full body of bishops at its June 2001 General Meeting. This edition of the *Directives*, which replaces all previous editions, is recommended for implementation by the diocesan bishop and is authorized for publication by the undersigned.

Monseñor William P. Fay  
General Secretary  
USCCB

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First Printing, 1971  
Revised, July 2001

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## Preamble

Health care in the United States is marked by extraordinary change. Not only is there continuing change in clinical practice due to technological advances, but the health care system in the United States is being challenged by both institutional and social factors as well. At the same time, there are a number of developments within the Catholic Church affecting the ecclesial mission of health care. Among these are significant changes in religious orders and congregations, a heightened involvement of lay men and women, a heightened awareness of the Church's social role in the world, and developments in moral theology since the Second Vatican Council. A contemporary understanding of the Catholic health care ministry must take into account the new challenges presented by transitions both in the Church and in American society.

Throughout the centuries, with the aid of other sciences, a body of moral principles has emerged that expresses the Church's teaching on medical and moral matters and has proven to be pertinent and applicable to the ever-changing circumstances of health care and its delivery. In response to today's challenges, these same moral principles of Catholic teaching provide the rationale and direction for this revision of the *Ethical and Religious Directives for Catholic Health Care Services*.

These Directives presuppose our statement *Health and Health Care* published in 1981. There we presented the theological principles that guide the Church's vision of health care, called for all Catholics to share in the healing mission of the Church, expressed our full commitment to the health care ministry, and offered encouragement to all those who are involved in it. Now, with American

The Directives begin with a general introduction that presents a theological basis for the Catholic health care ministry. Each of the six parts that follow is divided into two sections. The first section is in expository form; it serves as an introduction and provides the context in which concrete issues can be discussed from the perspective of the Catholic faith. The second section is in prescriptive form; the directives promote and protect the truths of the Catholic faith as those truths are brought to bear on concrete issues in health care.

health care facing even more dramatic changes, we reaffirm the Church's commitment to health care ministry and the distinctive Catholic identity of the Church's institutional health care services. The purpose of these *Ethical and Religious Directives* then is twofold: first, to reaffirm the ethical standards of behavior in health care that flow from the Church's teaching about the dignity of the human person; second, to provide authoritative guidance on certain moral issues that face Catholic health care today.

The *Ethical and Religious Directives* are concerned primarily with institutionally based Catholic health care services. They address the sponsors, trustees, administrators, chaplains, physicians, health care personnel, and patients or residents of these institutions and services. Since they express the Church's moral teaching, these Directives also will be helpful to Catholic professionals engaged in health care services in other settings. The moral teachings that we profess here flow principally from the natural law, understood in the light of the revelation Christ has entrusted to his Church. From this source the Church has derived its understanding of the nature of the human person, of human acts, and of the goods that shape human activity.

The Directives have been refined through an extensive process of consultation with bishops, theologians, sponsors, administrators, physicians, and other health care providers. While providing standards and guidance, the Directives do not cover in detail all of the complex issues that confront Catholic health care today. Moreover, the Directives will be reviewed periodically by the United States Conference of Catholic Bishops (formerly the National Conference of Catholic Bishops), in the light of authoritative church teaching. In order to address new insights from theological and medical research or new requirements of public policy,

## General Introduction

The Church has always sought to embody our Savior's concern for the sick. The gospel accounts of Jesus' ministry draw special attention to his acts of healing: he cleansed a man with leprosy (Mt 8:1-4; Mk 1:40-42); he gave sight to two people who were blind (Mt 20:29-34; Mk 10:46-52); he enabled one who was mute to speak (Lk 11:14); he cured a woman who was hemorrhaging (Mt 9:20-22; Mk 5:25-34); and he brought a young girl back to life (Mt 9:18, 23-25; Mk 5:35-42). Indeed, the Gospels are replete with examples of how the Lord cured every kind of ailment and disease (Mt 9:33). In the account of Matthew, Jesus' mission fulfilled the prophecy of Isaiah: "He took every one of our infirmities and bore our diseases" (Mt 8:17; cf. Jn 5:4).

Jesus' healing mission went further than caring only for physical affliction. He touched people at the deepest level of their existence: he sought their physical, mental, and spiritual healing (Jn 5:35, 11:25-27). He "cures so that they might have life and have it more abundantly" (Jn 10:10).

The mystery of Christ casts light on every facet of Catholic health care: to see Christ as the animating principle of health care; to see healing and compassion as a continuation of Christ's mission; to see suffering as a participation in the redemptive power of Christ's passion, death, and resurrection; and to see death transformed by the resurrection as an opportunity for a final act of communion with Christ.

For the Christian, our encounter with suffering and death can take on a positive and distinctive meaning through the redemptive power of Jesus' suffering and death. As St. Paul says, we are "always carrying about in the body the dying of Jesus, so that

the life of Jesus may also be manifested in our body" (2 Cor 4:10). This truth does not lessen the pain and fear, but gives confidence and grace for bearing suffering rather than being overwhelmed by it. Catholic health care ministry bears witness to the truth that, for those who are in Christ, suffering and death are the birth pangs of the new creation. "God himself will always be with them [as they] suffer." He will wipe every tear from their eyes, and there shall be no more death or mourning, weeping or pain, [for] the old order has passed away" (Rev 21:3-4).

In faithful imitation of Jesus Christ, the Church has served the sick, suffering, and dying in various ways throughout history. The zealous service of individuals and communities has provided shelter for the traveler; infirmaries for the sick; and homes for children, adults, and the elderly. In the United States, the many religious communities as well as dioceses that sponsor and staff this country's Catholic health care institutions and services have established an effective Catholic presence in health care. Modeling their efforts on the gospel parable of the Good Samaritan, these communities of women and men have exemplified authentic neighborliness to those in need (Lk 10:25-37). The Church seeks to ensure that the service offered in the past will be continued into the future.

While many religious communities continue their commitment to the health care ministry, lay Catholics increasingly have stepped forward to collaborate in this ministry. Inspired by the example of Christ and mandated by the Second Vatican Council, lay faithful are invited to a broader and more intense field of ministries than in the past. By virtue of their baptism, lay faithful are called to participate actively in the Church's life and mission. Their participation and leadership in the health care ministry, through new forms of sponsorship and

provision of institutional Catholic health care, are essential for the Church to continue her ministry of healing and compassion. They are joined in the Church's health care mission by many men and women who are not Catholic.

Catholic health care expresses the healing ministry of Christ in a specific way within the local church. Here the diocesan bishop exercises responsibilities that are rooted in his office as pastor, teacher, and priest. As the center of unity in the diocese and coordinator of ministries in the local church, the diocesan bishop fosters the mission of Catholic health care in a way that promotes collaboration among health care leaders, providers, medical professionals, theologians, and other specialists. As pastor, the diocesan bishop is in a unique position to encourage the faithful to greater responsibility in the healing ministry of the Church. As teacher, the diocesan bishop ensures the moral and religious identity of the health care ministry in whatever setting it is carried out in the diocese. As pastor, the diocesan bishop oversees the sacramental care of the sick. These responsibilities will require that Catholic health care providers and the diocesan bishop engage in ongoing communication on ethical and pastoral matters that require his attention.

In a time of new medical discoveries, rapid technological developments, and social change, what is new can either be an opportunity for genuine advancement in human culture, or it can lead to policies and actions that are contrary to the true dignity and vocation of the human person. In consultation with medical professionals, church leaders review these developments, judge them according to the principles of right reason and the ultimate standard of revealed truth, and offer substantive teaching and guidance about the moral and pastoral responsibilities entailed by the Christian faith.

While the Church cannot furnish a ready answer to every moral dilemma, there are many questions about which she provides normative guidance and direction. In the absence of a determination by the magisterium, but never contrary to church teaching, the guidance of approved authors can offer appropriate guidance for ethical decision making.

Created in God's image and likeness, the human family shares in the dominion that Christ manifested in his healing ministry. This sharing involves a stewardship over all material creation (Gen 1:26) that should neither abuse nor squander nature's resources. Through science the human race comes to understand God's wonderful work, and through technology it must conserve, protect, and perfect nature in harmony with God's purposes. Health care professionals pursue a special vocation to share in carrying forth God's life-giving and healing work.

The dialogue between medical science and Christian faith has for its primary purpose the common good of all human persons. It presupposes that science and faith do not contradict each other. Both are grounded in respect for truth and freedom. As new knowledge and new technologies expand, each person must form a correct conscience based on the moral norms for proper health care.

PART ONE  
**The Social Responsibility  
of Catholic Health Care  
Services**

**Introduction**

Their embrace of Christ's healing mission has led institutionally-based Catholic health care services in the United States to become an integral part of the nation's health care system. Today, this complex health care system confronts a range of economic, technological, social, and moral challenges. The response of Catholic health care institutions and services to these challenges is guided by normative principles that inform the Church's healing ministry.

First, Catholic health care ministry is rooted in a commitment to promote and defend human dignity; this is the foundation of the concern to respect the sacredness of every human life from the moment of conception until death. The first right of the human person, the right to life, entails a right to the means for the proper development of life, such as adequate health care.<sup>1</sup>

Second, the biblical mandates to care for the poor requires us to express this in concrete action at all levels of Catholic health care. This mandate prompts us to work to ensure that our country's health care delivery system provides adequate health care for the poor. In Catholic institutions, particular attention should be given to the health care needs of the poor, the uninsured, and the underserved.<sup>2</sup>

Third, Catholic health care ministry seeks to contribute to the common good. The common good is realized when economic, political, and social con-

ditions ensure protection for the fundamental rights of all individuals and enable all to fulfill their common purpose and reach their common goal.<sup>3</sup>

Fourth, Catholic health care ministry exercises responsible stewardship of available health care resources. A just health care system will be concerned both with promoting equity of care—to assure that the right of each person to basic health care is respected—and with promoting the good health of all in the community. The responsible stewardship of health care resources can be accomplished best in dialogue with people from all levels of society, in accordance with the principle of subsidiarity and with respect for the moral principles that guide institutions and persons.

Fifth, within a pluralistic society, Catholic health care services will encounter requests for medical procedures contrary to the moral teachings of the Church. Catholic health care does not offend the rights of individual conscience by refusing to provide or permit medical procedures that are judged morally wrong by the teaching authority of the Church.

**Directives**

1. A Catholic institutional health care service is a community that provides health care to those in need of it. This service must be animated by the Gospel of Jesus Christ and guided by the moral tradition of the Church.
2. Catholic health care should be marked by a spirit of mutual respect among care-givers that disposes them to deal with those it serves and their families with the compassion of Christ, sensitive to their vulnerability at a time of special need.
3. In accord with its mission, Catholic health care should distinguish itself by service to and

advocacy for those people whose social condition puts them at the margins of our society and makes them particularly vulnerable to discrimination: the poor; the uninsured and the underinsured; children and the unborn; single parents; the elderly; those with incurable diseases and chemical dependencies; racial minorities; immigrants and refugees. In particular, the person with mental or physical disabilities, regardless of the cause or severity, must be treated as a unique person of incomparable worth, with the same right to life and to adequate health care as all other persons.

4. A Catholic health care institution, especially a teaching hospital, will promote medical research consistent with its mission of providing health care and with concern for the responsible stewardship of health care resources. Such medical research must adhere to Catholic moral principles.

5. Catholic health care services must adopt these Directives as policy; require adherence to them within the institution as a condition for medical privileges and employment, and provide appropriate instruction regarding the Directives for administrators, medical and nursing staff, and other personnel.

6. A Catholic health care organization should be a responsible steward of the health care resources available to it. Collaboration with other health care providers, in ways that do not compromise Catholic social and moral teaching, can be an effective means of such stewardship.<sup>4</sup>

7. A Catholic health care institution must treat its employees respectfully and justly. This responsibility includes equal employment opportuni-

ties for anyone qualified for the task, irrespective of a person's race, sex, age, national origin, or disability; a workplace that promotes employee participation; a work environment that ensures employee safety and well-being; just compensation and benefits and recognition of the rights of employees to organize and bargain collectively without prejudice to the common good.

8. Catholic health care institutions have a unique relationship to both the Church and the wider community they serve. Because of the ecclesial nature of this relationship, the relevant requirements of canon law will be observed with regard to the formation of a new Catholic health care institution; the substantial revision of the mission of an institution; and the sale, sponsorship transfer, or closure of an existing institution.

9. Employees of a Catholic health care institution must respect and uphold the religious mission of the institution and adhere to these Directives. They should maintain professional standards and promote the institution's commitment to human dignity and the common good.

## PART TWO

# The Pastoral and Spiritual Responsibility of Catholic Health Care

## Introduction

The dignity of human life flows from creation in the image of God. (Gen. 1:26), from redemption by Jesus Christ (Eph. 1:10, 1:7; Tit. 2:4-6), and from our common destiny to share a life with God beyond all corruption. (1 Cor. 15:42-57). Catholic health care has the responsibility to treat those in need in a way that respects the human dignity and eternal destiny of all. The words of Christ have provided inspiration for Catholic health care: "I want it and you care for me" (Mt. 25:36). The care provided assists those in need to experience their own dignity and value, especially when these are obscured by the burdens of illness or the ambiguity of imminent death.

Since a Catholic health care institution is a community of healing and compassion, the care offered is not limited to the treatment of a disease or bodily ailment but embraces the physical, psychological, social, and spiritual dimensions of the human person. The medical expertise offered through Catholic health care is combined with other forms of care to promote health and relieve human suffering. For this reason, Catholic health care extends to the spiritual nature of the person. "Without health of the spirit, high technology focused strictly on the body offers limited hope for healing the whole person." Directed to spiritual needs that are often expressed more deeply during times of illness, pastoral care is an integral part of Catholic health care.

Pastoral care encompasses the full range of spiritual services, including listening presence, help in dealing with powerlessness, pain, and alienation, and assistance in recognizing and responding to God's acknowledged gifts of course, that technological advances in medicine have raised the length of hospital stays dramatically. It follows, therefore, that the pastoral care of patients, especially administration of the sacraments, will be provided more often than not at the parish level, both before and after one's hospitalization. For this reason, it is essential that there be very cordial and cooperative relationships between the personnel of pastoral care departments and the local clergy and ministers of care.

Patients, doctors, religious, and lay exercise diverse but complementary roles in this pastoral care. Since many areas of pastoral care call upon the creative response of these pastoral caregivers, the following particular needs of patients or residents, the following directives address only a limited number of specific pastoral activities.

## Directives

10. A Catholic health care organization should provide pastoral care to ministers to the religious and spiritual needs of all those it serves. Pastoral care personnel—clergy, religious, and lay alike—should have appropriate professional preparation, including an understanding of these Directives.

11. Pastoral care personnel should work in close collaboration with local parishes and community clergy. Appropriate pastoral services and/or referrals should be available to all in keeping with their religious beliefs or affiliation.

12. For Catholic patients or residents, provision for the sacraments is an especially important part of Catholic health care ministry. Every effort should be made to have patients assigned to hospitals and health care institutions to celebrate the Eucharist and provide the sacraments to patients and staff.

13. Particular care should be taken to provide and to publicize opportunities for patients or residents to receive the sacrament of Penance.

14. Properly prepared lay Catholics can be appointed to serve as extraordinary ministers of Holy Communion, in accordance with canon law and the policies of the local diocese. They should assist pastoral care personnel—clergy, religious, and lay—by providing appropriate visits, advising patients regarding the availability of priests for the sacrament of Penance, and distributing Holy Communion to the faithful who request it.

15. Responsive to a patient's desires and condition, all involved in pastoral care should facilitate the availability of priests to provide the sacrament of Anointing of the Sick, recognizing that through this sacrament Christ provides grace and support to those who are seriously ill or weakened by advanced age. Normally, the sacrament is celebrated when the sick person is fully conscious. It may be conferred upon the sick who have lost consciousness or the use of reason, if there is reason to believe that they would have asked for the sacrament while in control of their faculties.

16. All Catholics who are capable of receiving Communion should receive Viaticum when they are in danger of death, while still in full possession of their faculties.

17. Except in cases of emergency (i.e., danger of death), any request for Baptism made by adults or for infants should be referred to the chaplain of the institution. Newly born infants in danger of death, including those unattended, should be baptized if this is possible.<sup>13</sup> In case of emergency, if a priest or a deacon is not available, anyone can validly baptize.<sup>14</sup> In the case of emergency Baptism, the chaplain or the director of pastoral care is to be notified.

18. When a Catholic who has been baptized but not yet confirmed is in danger of death, any priest may confirm the person.<sup>15</sup>

19. A record of the conferral of Baptism or Confirmation should be sent to the parish in which the institution is located and posted in its Baptism/Confirmation registers.

20. Catholic discipline generally reserves the reception of the sacraments to Catholics. In accord with canon 844, §3, Catholic ministers may administer the sacraments of Baptism, Penance, and Anointing of the Sick to members of the oriental churches that do not have full communion with the Catholic Church, or of other churches that in the judgment of the Holy See are in the same condition as the oriental churches, if such persons ask for the sacraments on their own and are properly disposed.

With regard to other Christians not in full communion with the Catholic Church, when the danger of death or other grave necessity is present, the four conditions of canon 844, §4, also must be present, namely they cannot approach a minister of their own community; they ask for the sacraments on their own; they manifest Catholic faith in these sacraments; and they are

### PART THREE

## The Professional-Patient Relationship

### Introduction

A person in need of health care and the professional health care provider who accepts that person as a patient enter into a relationship that requires, among other things, mutual respect, trust, honesty, and appropriate confidentiality. The resulting free exchange of information must avoid manipulation, intimidation, or coercion. Such a relationship enables the patient to disclose personal information needed for effective care and permits the health care provider to use his or her professional competence most effectively to maintain or restore the patient's health. Neither the health care professional nor the patient acts independently of the other; both participate in the healing process.

Today, a patient often receives health care from a team of providers, especially in the setting of the modern acute-care hospital. But the resulting multiplication of relationships does not alter the personal character of the interaction between health care providers and the patient. The relationship of the person seeking health care and the professional providing that care is an important part of the foundation on which diagnosis and care are provided. Diagnosis and care, therefore, entail a series of decisions with ethical as well as medical dimensions. The health care professional has the knowledge and experience to pursue the goals of healing, the maintenance of health, and the compassionate care of the dying, taking into account the patient's convictions and spiritual needs, and the moral responsibilities of

all concerned. The person in need of health care depends on the skill of the health care provider to assist in preserving life and promoting health of body, mind and spirit. The patient, in turn, has a responsibility to use those physical and mental resources in the service of moral and spiritual goals to the best of his or her ability.

When the health care professional and the patient use institutional Catholic health care, they also accept its public commitment to the Church's understanding of and witness to the dignity of the human person. The Church's moral teaching on health care nurtures a truly interpersonal professional-patient relationship. This professional-patient relationship is never separated, then, from the Catholic identity of the health care institution. The faith that inspires Catholic health care guides medical decisions in ways that fully respect the dignity of the person and the relationship with the health care professional.

### Directives

23. The inherent dignity of the human person must be respected and protected regardless of the nature of the person's health problem or social status. The respect for human dignity extends to all persons who are served by Catholic health care.

24. In compliance with federal law, a Catholic health care institution will make available to patients information about their right, under the laws of their state, to make an advance directive for their medical treatment. The institution, however, will not honor an advance directive that is contrary to Catholic teaching. If the advance directive conflicts with Catholic teaching, an explanation should be provided as to why the directive cannot be honored.

25. Each person may identify in advance a representative to make health care decisions as his or her surrogate in the event that the person loses the capacity to make health care decisions. Decisions by the designated surrogate should be faithful to Catholic moral principles and to the person's intentions and values, or if the person's intentions are unknown, to the person's best interests. In the event that an advance directive is not created, those who are in a position to know best the patient's wishes—usually family members and loved ones—should participate in the treatment decisions for the person who has lost the capacity to make health care decisions.

26. The free and informed consent of the person or the person's surrogate is required for medical treatments and procedures, except in an emergency situation when consent cannot be obtained and there is no indication that the patient would refuse consent to the treatment.

27. Free and informed consent requires that the person or the person's surrogate receive all reasonable information about the essential nature of the proposed treatment and its benefits, its risks, side-effects, consequences, and cost; and any reasonable and morally legitimate alternatives, including no treatment at all.

28. Each person or the person's surrogate should have access to medical and moral information and counseling so as to be able to form his or her conscience. The free and informed health care decision of the person or the person's surrogate is to be followed so long as it does not contradict Catholic principles.

29. All persons served by Catholic health care have the right and duty to protect and preserve their

21. For the sake of appropriate canonical and interfaith relations, a diocesan policy should be developed with regard to the appointment of non-Catholic members to the pastoral care staff of a Catholic health care institution. The director of pastoral care at a Catholic institution should be a Catholic, with exception to this norm should be approved by the diocesan bishop.

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bodily and functional integrity.<sup>16</sup> The functional integrity of the person may be sacrificed to maintain the health or life of the person when no other morally permissible means is available.<sup>17</sup>

30. The transplantation of organs from living donors is morally permissible when such a donation will not sacrifice or seriously impair any essential bodily function and the anticipated benefit to the recipient is proportionate to the harm done to the donor. Furthermore, the freedom of the prospective donor must be respected, and economic advantages should not accrue to the donor.

31. No one should be the subject of medical or genetic experimentation, even if it is therapeutic, unless the person or surrogate first has given free and informed consent. In instances of non-therapeutic experimentation, the surrogate can give this consent only if the experiment entails no significant risk to the person's well-being. Moreover, the greater the person's incompetency and vulnerability, the greater the reasons must be to perform any medical experimentation, especially nontherapeutic.

32. While every person is obliged to use ordinary means to preserve his or her health, no person should be obliged to submit to a health-care procedure that the person has judged, with a free and informed conscience, not to provide a reasonable hope of benefit without imposing excessive risks and burdens on the patient or excessive expense to family or community.<sup>18</sup>

33. The well-being of the whole person must be taken into account in deciding about any therapeutic intervention or use of technology.

Therapeutic procedures that are likely to cause harm or undesirable side-effects can be justified only by a proportionate benefit to the patient.

34. Health care providers are to respect each person's privacy and confidentiality regarding information related to the person's diagnosis, treatment, and care.

35. Health care professionals should be educated to recognize the symptoms of abuse and violence and are obliged to report cases of abuse to the proper authorities in accordance with local statutes.

36. Compassionate and understanding care should be given to a person who is the victim of sexual assault. Health care providers should cooperate with law enforcement officials and offer the person psychological and spiritual support as well as accurate medical information. A female who has been raped should be able to defend herself against a potential conception from the sexual assault. If, after appropriate testing, there is no evidence that conception has occurred already, she may be treated with medications that would prevent ovulation, sperm capacitation, or fertilization. It is not permissible, however, to initiate or to recommend treatments that have as their purpose or direct effect the removal, destruction, or interference with the implantation of a fertilized ovum.<sup>19</sup>

37. An ethics committee or some alternate form of ethical consultation should be available to assist by advising on particular ethical situations, by offering educational opportunities, and by reviewing and recommending policies. To these ends, there should be appropriate standards for medical ethical consultation within a particular

#### PART FOUR

### Issues in Care for the Beginning of Life

#### Introduction

The Church's commitment to human dignity inspires an abiding concern for the sanctity of human life from its very beginning, and with the dignity of marriage and of the marriage act by which human life is transmitted. The Church cannot approve medical practices that undermine the biological, psychological, and moral bonds on which the strength of marriage and the family depends.

Catholic health care ministry witnesses to the sanctity of life "from the moment of conception until death."<sup>20</sup> The Church's defense of life encompasses the unborn and the care of women and their children during and after pregnancy. The Church's commitment to life is seen in its willingness to collaborate with others to alleviate the causes of the high infant mortality rate and to provide adequate health care to mothers and their children before and after birth.

The Church has the deepest respect for the family for the marriage covenant, and for the love that binds a married couple together. This includes respect for the marriage act by which husband and wife express their love and cooperate with God in the creation of a new human being. The Second Vatican Council affirms:

This love is an eminently human one. . . . It involves the good of the whole person. . . . The actions within marriage by which the couple are united intimately and chastely are noble and

diocese that will respect the diocesan bishop's pastoral responsibility as well as said members of ethics committees to be familiar with Catholic medical ethics and, in particular, these Directives.

worthy ones. Expressed in a manner which is truly human, these serious dignity and promote that mutual self-giving by which spouses enrich each other with a joyful and a thankful will.<sup>21</sup>

Marriage and conjugal love are by their nature ordained toward the begetting and educating of children. Children are really the supreme gift of marriage and contribute very substantially to the welfare of their parents. . . . Parents should regard as their proper mission the task of transmitting human life and educating those to whom it has been transmitted. . . . They are thereby cooperators with the love of God the Creator, and are, so to speak, the interpreters of that love.<sup>22</sup>

For legitimate reasons of responsible parenthood, married couples may limit the number of their children by natural means. The Church cannot approve contraceptive interventions that "either in anticipation of the marital act, or in its accomplishment or in the development of its natural consequences, have the purpose, whether as an end or a means, to render procreation impossible."<sup>23</sup> Such interventions violate "the inseparable connection, willed by God, . . . between the two meanings of the conjugal act: the unitive and procreative meaning."<sup>24</sup>

With the advances of the biological and medical sciences, society has at its disposal new technologies for responding to the problem of infertility. While we rejoice in the potential for good inherent in many of these technologies, we cannot assume that what is technically possible is always morally right. Reproductive technologies that substitute for the marriage act are not consistent with human dignity. Just as the marriage act is joined naturally to procreation, so procreation is joined naturally to the marriage act. As Pope John XXIII observed:

The transmission of human life is entrusted by nature to a personal and conscious act and as such is subject to all the holy laws of God: the immutable and inviolable laws which must be recognized and observed. For this reason, one cannot use means and follow methods which could be licit in the transmission of the life of plants and animals.<sup>25</sup>

Because the moral law is rooted in the whole of human nature, human persons, through intelligent reflection on their own spiritual destiny, can discover and cooperate in the plan of the Creator.<sup>26</sup>

#### Directives

38. When the marital act of sexual intercourse is not able to attain its procreative purpose, assistance that does not separate the unitive and procreative ends of the act, and does not substitute for the marital act itself, may be used to help married couples conceive.<sup>27</sup>

39. Those techniques of assisted conception that respect the unitive and procreative meanings of sexual intercourse and do not involve the destruction of human embryos, or their deliberate generation in such numbers that it is clearly envisaged that all cannot implant and some are simply being used to maximize the chances of others implanting, may be used as therapies for infertility.

40. Heterologous fertilization (that is, any technique used to achieve conception by the use of gametes coming from at least one donor other than the spouses) is prohibited because it is contrary to the covenant of marriage, the unity of the spouses, and the dignity proper to parents and the child.<sup>28</sup>

41. Homologous artificial fertilization (that is, any technique used to achieve conception using the gametes of the two spouses joined in marriage) is prohibited when it separates procreation from the marital act in its unitive significance (e.g., any technique used to achieve extra-corporeal conception).<sup>29</sup>

42. Because of the dignity of the child and of marriage, and because of the uniqueness of the mother-child relationship, participation in contracts or arrangements for surrogate motherhood is not permitted. Moreover, the commercialization of such surrogacy denigrates the dignity of women, especially the poor.<sup>30</sup>

43. A Catholic health care institution that provides treatment for infertility should offer not only technical assistance to infertile couples, but also should help couples pursue other solutions (e.g., counseling, adoption).

44. A Catholic health care institution should provide prenatal, obstetric, and postnatal services for mothers and their children in a manner consistent with its mission.

45. Abortion (that is, the directly-intended termination of pregnancy before viability or the directly-intended destruction of a viable fetus) is never permitted. Every procedure whose sole immediate effect is the termination of pregnancy before viability is an abortion, which, in its moral context, includes the interval between conception and implantation of the embryo. Catholic health care institutions are not to provide abortion services, even based upon the principle of mutual cooperation. In this context, Catholic health care institutions need to be concerned about the danger of scandal in any association with abortion providers.

46. Catholic health care providers should be ready to offer compassionate physical, psychological, moral, and spiritual care to those persons who have suffered from the trauma of abortion.

47. Operations, treatments, and medications that have as their direct purpose the cure of a proportionately serious pathological condition of a pregnant woman are permitted when they cannot be safely postponed until the unborn child is viable, even if they will result in the death of the unborn child.

48. In case of extraordinary pregnancy, no intervention is morally licit which constitutes a direct abortion.<sup>31</sup>

49. For a proportionate reason, labor may be induced after the fetus is viable.

50. Prenatal diagnosis is permitted when the procedure does not threaten the life or physical integrity of the unborn child or the mother and does not subject them to disproportionate risks when the diagnosis can provide information to guide preventative care for the mother or postnatal care for the child, and when the parents, or at least the mother, give free and informed consent. Prenatal diagnosis is not permitted when undertaken with the intention of aborting an unborn child with a serious defect.<sup>32</sup>

51. Nontherapeutic experiments on a living embryo or fetus are not permitted, even with the consent of the parents. Therapeutic experiments are permitted for a proportionate reason with the free and informed consent of the parents or, if the father cannot be contacted, at least of the mother. Medical research that will not harm the life or physical integrity of an unborn child is permitted with parental consent.<sup>33</sup>

52. Catholic health institutions may not promote or condone contraceptive practices but should provide, for married couples and the medical staff who counsel them, instruction both about the Church's teaching on responsible parenthood and in methods of natural family planning.

53. Direct sterilization of either men or women, whether permanent or temporary, is not permitted in a Catholic health care institution. Procedures that induce sterility are permitted when their direct effect is the cure or alleviation of a present and serious pathology and a simpler treatment is not available.<sup>53</sup>

54. Genetic counseling may be provided in order to promote responsible parenthood and to prepare for the proper treatment and care of children with genetic defects, in accordance with Catholic moral teaching and the intrinsic rights and obligations of married couples regarding the transmission of life.

## PART FIVE Issues in Care for the Dying

### Introduction

Christ's redemption and saving grace embrace the whole person, especially in his or her illness, suffering, and death.<sup>52</sup> The Catholic health care ministry faces the reality of death with the confidence of faith. In the face of death—for many a time when hope seems lost—the Church witnesses to her belief that God has created each person for eternal life.<sup>53</sup>

Above all, as a witness to its faith, a Catholic health care institution will be a community of respect, love, and support to patients or residents and their families as they face the reality of death. What is hardest to face is the process of dying itself, especially the dependency, the helplessness and the pain that so often accompany terminal illness. One of the primary purposes of medicine in caring for the dying is the relief of pain, and the suffering caused by its effective management of pain in all its forms is critical in the appropriate care of the dying.

The truth that life is a precious gift from God has profound implications for the question of sterility over human life. We are not the owners of our lives and, hence, do not have absolute power over life. We have a duty to preserve our life and to use it for the glory of God, but the duty to preserve life is not absolute, for we may reject life-prolonging procedures that are manifestly beneficial or excessively burdensome. Suicide and euthanasia are never morally acceptable options.

The task of medicine is to care even when it cannot cure. Physicians and their patients must eval-

uate the use of the technology at their disposal. Reflection on the innate dignity of human life in all its dimensions and on the purpose of medical care is indispensable for formulating a true moral judgment about the use of technology to sustain life. The use of life-sustaining technology is judged in light of the Christian meaning of life, suffering, and death. Only in this way are two extremes avoided on the one hand, an insistence on useless or burdensome technology even when a patient may legitimately wish to forgo it and, on the other hand, the withdrawal of technology with the intention of causing death.<sup>54</sup>

Some state Catholic conferences, individual bishops, and the USCCB Committee on Pro-Life Activities (formerly an NCCB committee) have addressed the moral issues concerning medically assisted hydration and nutrition. The bishops are guided by the Church's teaching forbidding euthanasia, which is "an action or an omission which of itself or by intention causes death, in order that all suffering may in this way be eliminated."<sup>55</sup> These statements agree that hydration and nutrition are not morally obligatory either when they bring no comfort to a person who is imminently dying or when they cannot be assimilated by a person's body. The USCCB Committee on Pro-Life Activities' report, in addition, points out the necessary distinctions between questions already resolved by the magisterium and those requiring further reflection, as, for example, the morality of withdrawing medically assisted hydration and nutrition from a person who is in the condition that is recognized by physicians as the "persistent vegetative state" (PVS).<sup>56</sup>

### Directives

55. Catholic health care institutions offering care to persons in danger of death from illness,

accident, advanced age, or similar condition should provide them with appropriate opportunities to prepare for death. Persons in danger of death should be provided with whatever information is necessary to help them understand their condition and have the opportunity to discuss their condition with their family members and care providers. They should also be offered the appropriate medical information that would make it possible to address the morally legitimate choices available to them. They should be provided the spiritual support as well as the opportunity to receive the sacraments in order to prepare well for death.

56. A person has a moral obligation to use ordinary or proportionate means of preserving his or her life. Proportionate means are those that in the judgment of the patient offer a reasonable hope of benefit and do not entail an excessive burden or impose excessive expense on the family or the community.<sup>57</sup>

57. A person may forgo extraordinary or disproportionate means of preserving life. Disproportionate means are those that in the patient's judgment do not offer a reasonable hope of benefit or entail an excessive burden, or impose excessive expense on the family or the community.<sup>58</sup>

58. There should be a presumption in favor of providing nutrition and hydration to all patients, including patients who require medically assisted nutrition and hydration, as long as this is of sufficient benefit to outweigh the burdens involved to the patient.

59. The free and informed judgment made by a competent adult patient concerning the use or

legitimate purposes, so that they may be used for donation and research after death.

64. Such organs should not be removed until it has been medically determined that the patient has died. In order to prevent any conflict of interest, the physician who determines death should not be a member of the transplant team.

65. The use of tissue or organs from an infant may be permitted after death has been determined and with the informed consent of the parents or guardians.

66. Catholic health care institutions should not make use of human tissue obtained by direct abortions even for research and therapeutic purposes.<sup>6</sup>

withdrawal of life-sustaining procedures should always be respected and normally complied with, unless it is contrary to Catholic moral teaching.

60. Euthanasia is an action or omission that of itself or by intention causes death in order to alleviate suffering. Catholic health care institutions may never condone or participate in euthanasia or assisted suicide in any way. Dying patients who request euthanasia should receive loving care, psychological and spiritual support, and appropriate remedies for pain and other symptoms so that they can live with dignity until the time of natural death.<sup>6</sup>

61. Patients should be kept as free of pain as possible so that they may die comfortably and with dignity, and in the place where they wish to die. Since a person has the right to prepare for his or her death while fully conscious, he or she should not be deprived of consciousness without a compelling reason. Medicines capable of alleviating or suppressing pain may be given to a dying person, even if this therapy may indirectly shorten the person's life, so long as the intent is not to hasten death. Patients experiencing suffering that cannot be alleviated should be helped to appreciate the Christian understanding of redemptive suffering.

62. The determination of death should be made by the physician or competent medical authority in accordance with responsible and commonly accepted scientific criteria.

63. Catholic health care institutions should encourage and provide the means whereby those who wish to do so may arrange for the donation of their organs and bodily tissue, for ethically

## PART SIX

# Forming New Partnerships with Health Care Organizations and Providers

## Introduction

Until recently, most health care providers enjoyed a degree of independence from one another. In ever-increasing ways, Catholic health care providers have become involved with other health care organizations and providers. For instance, many Catholic health care systems and institutions share in the joint purchase of technology and services with other local facilities or physician groups. Another phenomenon is the growing number of Catholic health care systems and institutions joining or co-sponsoring integrated delivery networks or managed care organizations in order to contract with insurers and other health care payers. In some instances, Catholic health care systems sponsor a health care plan or health maintenance organization. In many dioceses, new partnerships will result in a decrease in the number of health care providers, at times leaving the Catholic institution as the sole provider of health care services. At whatever level, new partnerships forge a variety of interwoven relationships between the various institutional partners, between health care providers and the community, between physicians and health care services, and between health care services and payers.

On the one hand, new partnerships can be viewed as opportunities for Catholic health care institutions and services to witness to their religious

and ethical commitments and so influence the healing profession. For example, new partnerships can help to implement the Church's social teaching. New partnerships can be opportunities to realign the local delivery system in order to provide a continuum of health care to the community; they can witness to a responsible stewardship of limited health care resources; and they can be opportunities to provide to poor and vulnerable persons a more equitable access to basic care.

On the other hand, new partnerships can pose serious challenges to the viability of the identity of Catholic health care institutions and services, and their ability to implement these directives in a consistent way, especially when partnerships are formed with those who do not share Catholic moral principles. The risk of scandal cannot be underestimated when partnerships are not built upon common values and moral principles. Partnership opportunities for some Catholic health care providers may even threaten the continued existence of other Catholic institutions and services, particularly when partnerships are driven by financial considerations alone. Because of the potential dangers involved in the new partnerships that are emerging, an increased collaboration among Catholic-sponsored health care institutions is essential and should be sought before other forms of partnerships.

The significant challenges that new partnerships may pose, however, do not necessarily preclude their possibility or moral growth. The potential dangers require that new partnerships undergo systematic and objective moral analysis, which takes into account the various factors that often pressure institutions and services into new partnerships that can diminish the autonomy and ministry of the Catholic partner. The following directives are offered to assist institutionally-based Catholic health

care services in this process of analysis. To this end, the United States Conference of Catholic Bishops (formerly the National Conference of Catholic Bishops) has established the Ad Hoc Committee on Health Care Issues and the Church as a resource for bishops and health care leaders.

This new edition of the *Bishops' and Religious Directives* omits the appendix concerning cooperation, which was contained in the 1995 edition. Experience has shown that the brief articulation of the principles of cooperation that was presented there did not sufficiently forestall certain possible misinterpretations and in practice gave rise to problems in concrete applications of the principles. Reliable theological experts should be consulted in interpreting and applying the principles governing cooperation, with the proviso that, as a rule, Catholic partners should avoid entering into partnerships that would involve them in cooperation with the wrongdoing of other providers.

#### Directives

67. Decisions that may lead to serious consequences for the identity or reputation of Catholic health care services, or entail the high risk of scandal, should be made in consultation with the diocesan bishop or his health care liaison.

68. Any partnership that will affect the mission or religious and ethical identity of Catholic health care institutional services must respect church teaching and discipline. Diocesan bishops and other church authorities should be involved as such partnerships are developed, and the diocesan bishop should give the appropriate authorization before they are completed. The diocesan bishop's approval is required for partnerships sponsored by institutions subject to his govern-

ing authority; for partnerships sponsored by religious institutes of pontifical right, his *nihil obstat* should be obtained.

69. If a Catholic health care organization is considering entering into an arrangement with another organization that may be involved in activities judged morally wrong by the Church, participation in such activities must be limited to what is in accord with the moral principles governing cooperation.

70. Catholic health care organizations are not permitted to engage in immediate material cooperation in actions that are intrinsically immoral, such as abortion, euthanasia, assisted suicide, and direct sterilization.<sup>44</sup>

71. The possibility of scandal must be considered when applying the principles governing cooperation.<sup>45</sup> Cooperation, which in all other respects is morally licit, may need to be refused because of the scandal that might be caused. Scandal can sometimes be avoided by an appropriate explanation of what is in fact being done at the health care facility under Catholic auspices. The diocesan bishop has final responsibility for assessing and addressing issues of scandal, considering not only the circumstances in his local diocese but also the regional and national implications of his decision.<sup>46</sup>

72. The Catholic partner in an arrangement has the responsibility periodically to assess whether the binding agreement is being observed and implemented in a way that is consistent with Catholic teaching.

## Conclusion

St. John's speaks to us of our limitations and human frailty. It can take the form of infirmity resulting from the simple passing of years or injury from the exuberance of youthful energy. It can be temporary or chronic, debilitating, and even terminal. Yet the follower of Jesus faces illness and the consequences of the human condition aware that our Lord always shows compassion toward the infirm.

Jesus not only taught his disciples to be compassionate, but he also told them who should be the special object of their compassion. The parable of the leper, the crippled, the lame, the blind" (Lk 14:13). These were people whom Jesus healed and loved.

Catholic health care is a response to the challenge of Jesus to go and do likewise. Catholic health care services rejoice in the challenge to be Christ's healing compassion in the world and see their ministry not only as an effort to restore and preserve health but also as a spiritual service and a sign of that final healing that will one day bring about the new creation that is the ultimate fruit of Jesus' ministry and God's love for us.

## Notes

1. National Conference of Catholic Bishops, *Health and Health Care: A Pastoral Letter of the American Catholic Bishops* (Washington, D.C.: United States Catholic Conference, 1981).
2. Health care services under Catholic auspices are carried out in a variety of institutional settings (e.g., hospitals, clinics, outpatient facilities, urgent care centers, hospices, nursing homes, and parishes). Depending on the context, these Directives will employ the terms "institution" and/or "services" in order to encompass the variety of settings in which Catholic health care is provided.
3. *Health and Health Care*, p. 5.
4. Second Vatican Ecumenical Council, *Decree on the Apostolate of the Laity (Apostolicum Actuarium)* (1965), no. 1.
5. Pope John Paul II, Post-Synodal Apostolic Exhortation, *On the Vocation and the Mission of the Lay Faithful in the Church and in the World (Christifidelis Laici)* (Washington, D.C.: United States Catholic Conference, 1988), no. 29.
6. As examples, see: *Compassion for the Doctrine of the Faith, Declaration on Procreant Abortion (1974)*; *Congregation for the Doctrine of the Faith, Declaration on Abortion (1980)*; *Congregation for the Doctrine of the Faith, Instruction on Respect for Human Life in its Origin and on the Dignity of Procreation: Replies to Certain Questions of the Day (Donum Vitae)* (Washington, D.C.: United States Catholic Conference, 1987).
7. Pope John XIII, Encyclical Letter, *Paces on Earth (Paces in Terra)* (Washington, D.C.: United States Catholic Conference, 1968), no. 11; *Health and Health Care*, pp. 5, 17-18; *Catechism of the Catholic Church*, 2nd ed. (Washington, D.C.: United States Catholic Conference, 2000), no. 2211.
8. Pope John Paul II, *On Social Concern, Encyclical Letter on the Occasion of the Twentieth Anniversary of "Populorum Progressio"* (Sollicitudo Rei Societatis)

regulations, is a matter which, in the objective order, is by its very nature (or intrinsically) evil." The directive supersedes the "Commentary on the Reply of the Sacred Congregation for the Doctrine of the Faith on Sterilization in Catholic Hospitals" published by the National Conference of Catholic Bishops on September 15, 1977 in *Origins* 11 (1977): 399-400.

45. See *Catechism of the Catholic Church*; "Scandal is an attitude or behavior which leads another to do evil" (nos. 2284); "Anyone who uses the power of his office in such a way that it leads others to do wrong becomes guilty of scandal and responsible for the evil that he has directly or indirectly encouraged" (no. 2287).

46. See "The Pastoral Role of the Diocesan Bishop in Catholic Health Care Ministry" *Origins* 26 (1997): 703.

34. Cf. Congregation for the Doctrine of the Faith, "Responses on Uterine Isolation and Related Matters," July 31, 1993, *Origins* 24 (1994): 211-212.

35. Pope John Paul II, Apostolic Letter, *On the Christian Meaning of Human Suffering (Sublimis Doloris)* (Washington, D.C.: United States Catholic Conference, 1984), no. 25-27.

36. National Conference of Catholic Bishops, *Order of Christian Funerals* (Collegeville, Minn.: The Liturgical Press, 1989), no. 1.

37. *Declaration on Euthanasia*.

38. *Ibid.*, Part II, p. 4.

39. Committee for Pro-Life Activities, National Conference of Catholic Bishops, *Nourition and Hydration: Moral and Pastoral Reflections* (Washington, D.C.: United States Catholic Conference, 1992). On the importance of conveying authoritative teaching in the formation of conscience and in taking moral decisions, see *Veritatis Splendor*, nos. 63-64.

40. *Declaration on Euthanasia*, Part IV.

41. *Ibid.*

42. *Cf. ibid.*

43. *Domini Vitis*, Part I, no. 4.

44. While there are many acts of varying moral gravity that can be identified as intrinsically evil, in the context of contemporary health care the most pressing concerns are currently abortion, euthanasia, assisted suicide, and direct sterilization. See Pope John Paul II's *Ad Limina* Address to the bishops of Texas, Oklahoma, and Arkansas (Region X), in *Origins* 28 (1998): 243. See also "Reply of the Sacred Congregation for the Doctrine of the Faith on Sterilization in Catholic Hospitals" (*Quaestiones et Responsiones*), March 13, 1975, *Origins* 10 (1976): 33-35; "Any cooperation institutionally approved or tolerated in actions which are in themselves, that is, by their nature and condition, directed to a contraceptive end . . . is absolutely forbidden. For the official approbation of direct sterilization and, a fortiori, its management and execution in accord with hospital

20. Pope John Paul II, "Address of October 29, 1983, to the 35th General Assembly of the World Medical Association," *Acta Apostolicae Sedis* 76 (1984): 390.

21. Second Vatican Ecumenical Council, "Pastoral Constitution on the Church in the Modern World" (*Gaudium et Spes*) (1965), no. 49.

22. *Ibid.*, no. 50.

23. Pope Paul VI, *Evangelical Letter, On the Regulation of Birth (Humanae Vitae)* (Washington, D.C.: United States Catholic Conference, 1968), no. 14.

24. *Ibid.*, no. 12.

25. Pope John XXIII, *Encyclical Letter, Messae et Magister* (1961), no. 193, quoted in Congregation for the Doctrine of the Faith, *Domini Vitis*, no. 4.

26. Pope John Paul II, *Encyclical Letter, The Splendor of Truth (Veritatis Splendor)* (Washington, D.C.: United States Catholic Conference, 1993), no. 50.

27. "Homologous artificial insemination within marriage cannot be admitted except for those cases in which the technical means is not a substitute for the conjugal act but serves to facilitate and to help so that the act attains its natural purpose." (*Domini Vitis*, Part II, B, no. 6; cf. also Part I, nos. 1, 6).

28. *Ibid.*, Part II, A, no. 2.

29. "Artificial insemination as a substitute for the conjugal act is prohibited by reason of the voluntarily achieved dissociation of the two meanings of the act: normally obtained, is another sign of this dissociation: even when it is done for the purpose of procreation, the act remains deprived of its 'unitive meaning.' It lacks the sexual relationship called for by the moral order, namely, the relationship which realizes 'the full sense of mutual self-giving and human procreation in the context of true love'" (*Domini Vitis*, Part II, B, no. 6).

30. *Ibid.*, Part II, A, no. 3.

31. Cf. directive 45.

32. *Domini Vitis*, Part I, no. 2.

33. Cf. *ibid.*, no. 4.

(Washington, D.C.: United States Catholic Conference, 1986), no. 43.

9. National Conference of Catholic Bishops, *Economic Justice for All: Pastoral Letter on Catholic Social Teaching and the U.S. Economy* (Washington, D.C.: United States Catholic Conference, 1986), no. 80.

10. The duty of responsible stewardship demands responsible collaborations. But in collaborative efforts, Catholic institutions based health care services must be attentive to occasions when the policies and practices of other institutions are not compatible with the Church's authoritative moral teaching. At such times, Catholic health care institutions should determine whether or to what degree collaboration would be morally permissible. To make that judgment, the governing boards of Catholic institutions should adhere to the moral principles on cooperation. See Part 8B.

11. *Health and Health Care*, p. 12.

12. Cf. *Code of Canon Law*, cc. 921-923.

13. Cf. *ibid.*, c. 867, § 2; and c. 971.

14. To confer baptism in an emergency, one must have the proper intention (to do what the Church intends not to be baptized, meanwhile pronouncing the words "I baptize you in the name of the Father, and of the Son, and of the Holy Spirit").

15. Cf. c. 883, § 3.

16. For example, while the donation of a kidney represents a loss of biological integrity, such a donation does not compromise functional integrity since human beings are capable of functioning with only one kidney.

17. Cf. directive 51.

18. *Declaration on Euthanasia*, Part IV; cf. also directives 56-57.

19. It is recommended that a sexually assaulted woman be advised of the ethical restrictions that prevent Catholic hospitals from using abortifacient procedures; cf. Pennsylvania Catholic Conference, "Guidelines for Catholic Hospital Treating Victims of Sexual Assault," *Origins* 22 (1993): 810.

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Contract Summary Form:

Contract Number :

BC - 08 - 088

- D1. Fiscal Year ..... : FYs 08-09, 09-10, 10-11, 11-12, 12-13
- D2. Budget Unit Number (plus -Ship/-Bill codes in paren's) :
- D3. Requisition Number..... : n/a
- D4. Department Name..... : Public Health Department
- D5. Contact Person..... : Margaret A. Granger
- D6. Phone..... : (805) 681 5367

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- K1. Contract Type (check one): [ ] Personal Service [ ] Capital Project/Construction [X] LEASE
- K2. Brief Summary of Contract Description/Purpose : Lease clinic/office space for Sta Maria Womens Health Ctr
- K3. Original Contract Amount..... : \$88,514.40/year
- K4. Contract Begin Date ..... : March 1, 2008
- K5. Original Contract End Date..... : February 28, 2013
- K6. Amendment History (leave blank if no prior amendments):  

<u>Seq#</u>	<u>EffectiveDate</u>	<u>ThisAmndtAmt</u>	<u>CumAmndtTo</u>	<u>DateNewTotal</u>	<u>AmtNew</u>	<u>EndDate</u>	<u>Purpose (2-4 words)</u>
K7.	Department Project Number						n/a

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- B1. Is this a Board Contract? (Yes/No) ..... : Yes
- B2. Number of Workers Displaced (if any) ..... : n/a
- B3. Number of Competitive Bids (if any) ..... : n/a
- B4. Lowest Bid Amount (if bid) ..... : \$n/a
- B5. If Board waived bids, show Agenda Date..... : n/a
- B6. ... and Agenda Item Number..... : #n/a
- B7. Boilerplate Contract Text Unaffected? (Yes / or cite ¶¶) :n/a

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- F1. Encumbrance Transaction Code..... : 1701
- F2. Current Year Encumbrance Amount..... : \$n/a
- F3. Fund Number ..... : 0042
- F4. Department Number ..... : 041
- F5. Division Number (if applicable)..... : 12
- F6. Account Number..... : 7580
- F7. Cost Center number (if applicable) ..... : 041-11-01-3109-0
- F8. Payment Terms ..... : Net 30

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- V1. Vendor Numbers (A=uditor; P=urchasing) ..... : new vendor - not assigned yet
- V2. Payee/Contractor Name ..... : Excelsior LaSalle Property Fund Inc dba  
PMB Santa Maria 116 S. Palisade LLC
- V3. Mailing Address..... : 12348 High Bluff Drive, Suite 100
- V4. City State (two-letter) Zip (include +4 if known) : San Diego, CA 92130
- V5. Telephone Number ..... : (858) 794 1900
- V6. Contractor's Federal Tax ID Number (EIN or SSN) : 20-0579562
- V7. Contact Person ..... : Gabriella E. Samperio



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PMB Bakersfield 300 Old River, LLC  
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- V8. Workers Comp Insurance Expiration Date ..... : n/a
- V9. Liability Insurance Expiration Date[s] (G=enl; P=rofl) : n/a
- V10. Professional License Number ..... : #n/a
- V11. Verified by (name of County staff)..... : Margaret A. Granger
- V12. Company Type (Check one): [ ] Individual [ ] Sole Proprietorship [ ] Partnership [X] Corporation

**I certify:** information complete and accurate; designated funds available; required concurrences evidenced on signature page.

Date : Authorized Signature *Margaret A. Granger*