

**STANDARD FORM OFFICE LEASE  
(NNN)**

THIS TRIPLE-NET LEASE (this "**Lease**"), dated for reference purposes only as November 4, 2009, is entered into, and shall be deemed effective as of the date upon which Tenant (as defined below) delivers two (2) original executed copies of this Lease to Landlord (as defined below) (the "**Effective Date**"), by and between Landlord and Tenant, who agree as follows:

**ARTICLE 1. TERMS AND DEFINITIONS**

1.01. General. Capitalized terms used in this Lease shall have the meanings set forth in this Article 1 or as otherwise set forth in this Lease. The definitions and other provisions in this Article 1 are agreed to and form a part of this Lease.

1.02. Landlord.

- A. Name and Identity: Sutter East Bay Hospitals, a California nonprofit public benefit corporation.
- B. Address for Notices: Sutter East Bay Hospitals  
3005 Webster Street  
Oakland, California 94609

1.03. Tenant.

- A. Name and Identity: City of Berkeley, a municipal corporation.
- B. Address for Notices: City of Berkeley  
Attn.: City Manager  
2180 Milvia Street  
Berkeley, California 94704

1.04. Description of the Premises.

- A. Premises: Those certain premises described in Section 2.01 below.
- B. Building Address: 2500 Milvia Street  
Berkeley, California 94705.
- C. Suite Number: 114.
- D. Floor Upon Which the Premises are Located: First (1st).
- E. Rentable Square Feet Within the Premises: 3,573.

1.05. Term.

A. Term: The period commencing on the Commencement Date (as set forth below) and expiring on June 30, 2010.

B. Commencement Date: The Commencement Date of this Lease (the "**Commencement Date**") shall be the effective date of Tenant's ordinance that authorizes Tenant to enter into this Lease. Tenant anticipates that the Commencement Date will be December 17, 2009. When the Commencement Date is determined, Landlord and Tenant shall complete, execute and deliver the confirmation of lease terms substantially in the form attached hereto as Exhibit A and incorporated herein by this reference.

1.06. Rent.

A. Base Rent: Two and 75/100ths Dollars (\$2.75) per rentable square foot per month or Nine Thousand Eight Hundred Twenty-Five and 75/100ths Dollars (\$9,825.75) per month, subject to the rent abatement provision contained in Section 4.02.

B. Adjustments to Base Rent: On the anniversary of the Commencement Date, and annually thereafter, if applicable, the then current Base Rent per rentable square foot shall be increased by three percent (3%).

C. Tenant's Share: Tenant's Share of Direct Expenses (as hereafter defined) shall be equal to One and 15/100ths Dollars (\$1.15) per rentable square foot per month or Four Thousand One Hundred Eight and 95/100ths Dollars (\$4,108.95) per month.

D. Late Charge: Five percent (5%) of any rental sum not paid within ten (10) days of when due.

E. Interest Fee: Ten percent (10%) per annum or the maximum rate allowed by law on any rental sum not paid within ten (10) days of when due. Interest begins accruing and is due and payable as of the eleventh (11th) day after the rental sum is due and continues to accrue until paid in full.

1.07. Intended Use: Public health clinic.

1.08. Number of Parking Spaces: Eight (8) non-reserved parking spaces in the parking lot adjacent to the Building in common with other tenants, employees and invitees of the Building.

1.09. Exhibits.

A. Confirmation of Lease Terms.

B. Floor Plan Depicting the Premises.

## ARTICLE 2. PREMISES AND APPURTENANCES

2.01. Lease of Premises. Landlord hereby leases to Tenant and Tenant hereby leases from Landlord the Premises contained within the suite designated in Section 1.04, located on the floor designated in Section 1.04, outlined on the floor plan attached hereto as Exhibit A and incorporated herein by this reference, of that certain medical office building located at the address designated in Section 1.04 (the "**Building**"), with such leasehold improvements as are in existence on the Commencement Date of this Lease (the "**Leasehold Improvements**"). The Premises are agreed to have an area equal to the number of rentable square feet designated in Section 1.04. The Premises exclude the common stairways, stairwells, hallways, accessways and pipes, conduits, wires and appurtenant fixtures serving exclusively or in common other parts of the Building.

The parties hereto agree that the lease of the Premises to Tenant by Landlord is upon and subject to the terms, covenants and conditions set forth in this Lease. Tenant covenants as a material part of the consideration for this Lease to keep and perform each and all of the terms, covenants and conditions to be kept and performed by Tenant hereunder.

2.02. Common Areas. Tenant shall have the nonexclusive right to use in common with other tenants, invitees, employees, or otherwise, in the Building and subject to the rules and regulations referred to in Section 11.03 below, the following areas appurtenant to the Premises (collectively, the "**Common Areas**"):

A. The common entrances, lobbies, corridors, public restrooms, elevators, stairways, stairwells and accessways, loading docks, ramps, trash area roadways, sidewalks, walkways, parking areas to the extent not otherwise prohibited by this Lease, driveways, landscaped areas, drives and platforms and any passageways and serviceways thereto and the common pipes, conduits, wires and appurtenant equipment serving the Premises; and

B. Common walkways and sidewalks necessary for access to the Building.

2.03. Landlord Use Rights. Landlord reserves the right from time to time to undertake the following activities:

A. To install, use, maintain, repair and replace pipes, ducts, conduits, wires and appurtenant meters and equipment for service to other parts of the Building above the ceiling surfaces, below the floor surfaces, within the walls and in the central core areas; to relocate any of such items included in the Premises that are located therein or located elsewhere outside the Premises; and to expand the Building;

B. To make changes to or alter the Building interior and exterior or the Common Areas;

C. To close the Common Areas, or any portion thereof, temporarily for maintenance purposes;

D. To use the Common Areas while engaged in making additional improvements, repairs or alterations to the Building, or any portion thereof; and

E. To relocate the Common Areas, or any portion thereof.

Landlord shall not be liable to Tenant for any disruption in Tenant's business caused, directly or indirectly, by any of the foregoing activities. Tenant hereby releases Landlord from any liability in connection with the foregoing activities and expressly waives any rights that Tenant otherwise might have against Landlord with respect thereto.

2.04. Parking Rights. So long as Tenant abides by all applicable rules and regulations described in Section 11.03, Tenant shall have the right, during the Term of this Lease, to use the number of parking spaces specified in, and in accordance with, Section 1.08 of this Lease at no cost to Tenant. Tenant's parking rights shall be subject to any parking standards enacted by Landlord. Tenant's parking rights further shall be subject to the parking rights of other tenants in the Building, if any, and Landlord's right to designate certain parking areas for specific uses, including, by way of example, physician parking areas and visitor or employee parking areas.

### ARTICLE 3. TERM

3.01. Term. The Term of this Lease shall be for the period designated in Section 1.05.

3.02. Possession. Landlord shall deliver the Premises to Tenant as of the Commencement Date.

3.03. Tenant's Right to Early Access. Tenant shall be entitled to early access and use of the Premises to install Tenant's furniture, fixtures and equipment up to fifteen (15) days prior to the anticipated Commencement Date; provided, however, in no event shall Tenant have access to the Premises until the Effective Date. The foregoing right of early access and use is conditioned upon Tenant's compliance with all of the terms and conditions of this Lease, except that Tenant shall not be required to pay Rent for such early access and use of the Premises. Furthermore, Tenant and its representatives shall be subject to all directives of Landlord and Landlord's contractors in connection with such entry as well as the use of the Common Areas, including, but not limited to, restrooms, elevators, truck loading areas and other facilities. Tenant agrees to inform its contractors of the rules and regulations pertaining to construction activities established, from time to time, by Landlord. Prior to the commencement of any construction in the Premises, Tenant shall provide Landlord with a proposed work schedule for Tenant's contractors and other representatives.

3.04. Early Termination. Tenant shall have the right to terminate this Lease upon not less than thirty (30) days' written notice to Landlord.

3.05. Holding Over. Except as provided in Section 3.06 below, if Tenant fails to surrender all or any part of the Premises at the expiration or termination of this Lease, occupancy of the Premises after expiration or termination shall be that of a tenancy at sufferance. Tenant's occupancy shall be subject to all the terms and provisions of this Lease and Tenant shall pay an amount (on a per month basis without reduction for partial months during the holdover) equal to one hundred fifty percent (150%) of the Base Rent due for the period immediately preceding the holdover. Except as otherwise provided in Section 3.06 below, no holdover by Tenant or payment by Tenant after the expiration or termination of this Lease shall be construed to extend the Term or prevent Landlord from immediate recovery of possession of the Premises by

summary proceedings or otherwise. If Landlord is unable to deliver possession of the Premises to a new tenant or to perform improvements for a new tenant as a result of Tenant's holdover, Tenant shall be liable for all damages that Landlord suffers from the holdover, including, but not limited to, liability and losses incurred by Landlord with respect to the new tenant. The provisions of this Section 3.05 are in addition to and do not affect Landlord's rights of reentry or any rights of Landlord hereunder or as otherwise provided by law.

3.06. Landlord's Consent to Extension of Term. In the event Landlord, prior to the expiration of the initial Term, expressly consents in writing to an extension of the Lease, the Term of this Lease automatically shall be extended on a month-to-month basis and this Lease, and all of its terms and provisions, shall remain in full force and effect, including, but not limited to, annual adjustments to Base Rent in accordance with Sections 1.06B and 4.01, except that "Term" shall mean the initial Term and the consented to month-to-month period(s). If the Term of this Lease has been extended in accordance with this Section 3.06, Landlord shall have the right to terminate this Lease, at any time and for any reason, on thirty (30) days' notice to Tenant, and in the event that Tenant fails to surrender all or any part of the Premises at the expiration of the Term after having received from, or given to, Landlord thirty (30) days' notice to terminate this Lease, any holdover beyond such period shall be subject to the provisions of Section 3.05 above.

3.07. Surrender of Premises. On the expiration or earlier termination of the Term of this Lease, Tenant shall quit the Premises and surrender possession to Landlord in accordance with this Section 3.07. Tenant shall leave the Premises in the same first (1st)-class order, condition, repair and appearance as existed at the Commencement Date, reasonable and normal wear and tear excepted. For purposes of this Lease, the term "reasonable and normal wear and tear" shall not include any damage or deterioration that would have been prevented by good maintenance practice by Tenant. On expiration or termination, Tenant shall, without expense to Landlord, remove or cause to be removed from the Premises (A) all debris and rubbish; (B) any items of furniture, equipment, freestanding cabinet work and other articles of personal property owned by Tenant or installed or placed by Tenant at Tenant's expense in the Premises; (C) any similar articles of any other persons claiming under Tenant that Landlord, in Landlord's sole discretion, requires to be removed; (D) all telephone, data processing, audio and video, security and electrical (other than electrical wiring terminating at or connected to Building standard outlets) cables, wires, lines, duct work, sensors, switching equipment, control boxes and related improvements in compliance with the National Electric Code or other applicable law, unless Landlord elects to retain any of the foregoing, in which case, those items that Landlord has elected to retain shall be left by Tenant in good condition and working order, lien free and properly labeled; (E) any signage placed in, on or about the Premises by Tenant or on behalf of Tenant; and (F) any Alterations (as hereafter defined) that Tenant makes to the Premises that Landlord, in Landlord's sole discretion, requires to be removed. Tenant shall, at Tenant's sole expense, repair all damage or injury that may occur to the Premises, the Building or the Leasehold Improvements caused by Tenant's removal of any of the foregoing items and shall restore the Premises, the Building and the Leasehold Improvements to their original condition. Any property described in this Section 3.07 not removed from the Premises by Tenant upon the expiration or sooner termination of this Lease shall, at Landlord's option, become the property of Landlord or Landlord may remove or cause to be removed such property for Tenant's account, in which case Tenant shall reimburse Landlord for the cost of removal (including the cost of

repairing any damage to the Premises, the Building or the Leasehold Improvements caused by removal) and storage and a reasonable charge for Landlord's overhead within ten (10) days after Landlord gives Tenant a statement thereof. Tenant waives all claims against Landlord for any damage or loss to Tenant resulting from Landlord's removal, storage, retention or disposition of any such property. Upon expiration or termination of this Lease or of Tenant's possession, whichever is earliest, Tenant shall surrender all keys to the Premises or any other part of the Building and shall deliver to Landlord all keys for or make known to Landlord the combination of locks on all safes, cabinets and vaults that may be located in the Premises. Tenant's obligations under this Section 3.07 shall survive the termination of this Lease.

#### ARTICLE 4. RENT

4.01. Base Rent. Tenant agrees to pay to Landlord Base Rent designated in Section 1.06, in advance, without notice, demand, counterclaim, set-off, deduction, defense, abatement (except as expressly provided below), suspension, deferment, diminution or reduction, free from any charges, assessments, impositions, expenses or deductions of any kind whatsoever, on the first (1st) day of each and every calendar month during the Term commencing as of the Commencement Date. Base Rent shall be subject to any periodic increase specified in Section 1.06, if applicable. If the Term of this Lease commences or ends on a day other than the first (1st) day of a calendar month, then the rental for such period shall be prorated at one-thirtieth (1/30th) of the monthly amount for each day this Lease is in effect during such period, and such rental shall be paid at the commencement of such period.

4.02. Abatement of Base Rent. The services to be offered by Tenant at the Premises are in furtherance of Landlord's community benefit programs, including, but not limited to, expanding the availability of health care to those who need it most and meeting the specific health care needs of targeted populations. During the period commencing on the Commencement Date and expiring on June 30, 2010, Base Rent shall be abated. If the Term of this Lease is extended beyond June 30, 2010 or if Tenant remains in possession of the Premises thereafter or has failed to surrender the Premises in accordance with the terms of this Lease, Tenant shall pay Base Rent in accordance with Sections 1.06 and 4.01 and subject to Sections 3.05 and 3.06.

4.03. Additional Rent. In addition to Base Rent, Tenant agrees to pay Tenant's Share of Direct Expenses as and when provided in this Section 4.03 ("**Additional Rent**").

A. For the purposes of this Lease, the following terms are defined as follows:

"**Lease Year**": Each consecutive calendar year of the Term, except that the first (1<sup>st</sup>) Lease Year shall commence on the Commencement Date and end on the following December 31, and the last Lease Year shall end on the last day of the Term or any extension thereof.

"**Direct Expenses**": All direct costs of operation, repair and maintenance of the Building and the Common Areas (including replacements) as determined by standard accounting practices, calculated assuming the Building is one hundred percent (100%) occupied, including the following costs by way of illustration, but not limitation: real property taxes and

general, special or district assessments or other governmental impositions, of whatever kind, nature or origin, imposed on or by reason of the ownership or use of the Building; governmental charges, fees or assessments for transit or traffic mitigation (including area-wide traffic improvement assessments and transportation system management fees), housing, police, fire or other governmental service or purported benefits to the Building; personal property taxes assessed on the personal property of Landlord used in the operation of the Building; service payments in lieu of taxes and taxes and assessments of every kind and nature whatsoever levied or assessed in addition to, in lieu of or in substitution for existing or additional real or personal property taxes on the Building or the personal property described above; rental, sales, use, ad valorem and gross receipt taxes, or other similar taxes, if levied or imposed on Rent payments by any city, county, state or other governmental body having authority; any increases in the foregoing caused by changes in assessed valuation, tax rate or other factors or circumstances; the reasonable cost of contesting, by appropriate proceedings or seeking reductions in any tax liability described herein, the amount or validity of any taxes, assessments or charges described above; water and sewer charges; the net cost and expense of insurance for which Landlord is responsible hereunder or that Landlord or any first (1st) mortgagee with a lien affecting the Premises reasonably deems necessary in connection with the operation of the Building and any applicable deductibles; electricity, gas and other utility costs; janitorial services; security; labor and labor-related costs; costs incurred in the management of the Building, if any (including the wages and salaries of employees used in the management, operation, repair and maintenance of the Building, and payroll taxes and similar governmental charges with respect thereto, and administrative fees); auditing, accounting and legal fees and costs; air-conditioning; waste disposal; window cleaning; heating; ventilating; elevator maintenance; rental and purchase cost of parts, supplies, materials, equipment and tools; costs incurred to conduct any environmental tests required by state or federal law, including administrative agencies, or by Landlord; the cost of capital improvements as distinguished from replacement parts or components installed in the ordinary course of business that are: (1) performed primarily to reduce current or future operating expense costs, upgrade the Building security or otherwise improve the operating efficiency of the Building; or (2) required to comply with any laws that are enacted, or first interpreted to apply to the Building, after the date of this Lease; and landscaping, maintenance and costs of upkeep of all parking and Common Areas. Notwithstanding the foregoing, Landlord further may treat as expenses (chargeable in the Lease Year incurred), and not as capital costs, items that are (1) less than five percent (5%) of Direct Expenses for the Lease Year in question or (2) customarily expensed in accordance with industry standards. The cost of capital improvements shall be amortized by Landlord over the useful life of the capital improvement as reasonably determined by Landlord. The amortized cost of capital improvements may, at Landlord's option, include actual or imputed interest at the rate that Landlord would be reasonably required to pay to finance the cost of the capital improvement. Direct Expenses shall not include depreciation on the Building or equipment therein, Landlord's executive salaries or real estate brokers' commissions.

B. Tenant shall pay Additional Rent in advance, without notice, demand, counterclaim, set-off, deduction, defense, abatement, suspension, deferment, diminution or reduction, free from any charges, assessments, impositions, expenses or deductions of any kind whatsoever, on the first (1st) day of each and every calendar month during the Term commencing as of the Commencement Date.

4.04. Payment. All Rents and other sums payable by Tenant to Landlord hereunder shall be paid in legal United States tender to Landlord at the address designated by Landlord in Section 1.02 above or at such other place as Landlord may hereafter designate in writing.

4.05. Late Charge. Tenant acknowledges that late payment by Tenant of any sums due under this Lease will cause Landlord to incur costs not contemplated by this Lease, the exact amount of such costs being extremely difficult and impracticable to fix. Such costs include, without limitation, processing and accounting charges and late charges that may be imposed on Landlord by the terms of any encumbrance and note secured by any encumbrance covering the Premises. Therefore, if any rental or other payment due under this Lease is not paid within the time specified in Section 1.06, the Late Charge also specified therein shall become due, in addition to the amount otherwise owed, without demand or notice. The parties agree that this Late Charge represents a fair and reasonable estimate of the costs that Landlord will incur by reason of late payment by Tenant. Acceptance of the Late Charge shall not constitute a waiver of Tenant's default with respect to the overdue amount or prevent Landlord from exercising any of the other rights and remedies available to Landlord.

4.06. Interest Fee. In addition to the Late Charge referred to above, which is intended to defray Landlord's costs resulting from late payments, the Interest Fee specified in Section 1.06 shall be applied to any payment from Tenant to Landlord not paid within ten (10) days of when due. The Interest Fee shall be immediately payable in full upon demand from Landlord. Landlord's failure to demand payment of the Interest Fee at any time throughout the Term shall not be deemed a waiver by Landlord of the right to collect the Interest Fee at any future date upon demand, notwithstanding the fact that Landlord collects the rents or other sums upon which the Interest Fee accrued. Upon payment in full of any such delinquent rents or other sums due under this Lease, the Interest Fee shall cease accruing thereon. Acceptance of the Interest Fee shall not constitute a waiver of Tenant's default with respect to the overdue sum or prevent Landlord from exercising any of its other rights and remedies under this Lease.

## ARTICLE 5. USE

5.01. Use. Tenant shall use the Premises for the Intended Use specified in Section 1.07 and for no other purpose whatsoever without the prior written consent of Landlord, which consent may be granted or withheld arbitrarily, capriciously, for no reason or for any reason. Tenant shall have access to the Premises at all times, subject to Tenant's payment of after standard business hours utility charges in accordance with Section 7.01, and further subject to Tenant giving Landlord prior written notice of such desired use after standard business hours. Tenant shall comply with any rules that Landlord may develop and deliver to Tenant concerning packaging or collection points for any medical and/or infectious waste or otherwise.

5.02. Compliance With Laws. Tenant shall not use or occupy the Premises in violation of any laws, rules, regulations, ordinances, directives, orders, covenants, easements and restrictions of record, permits, the requirements of any applicable fire insurance underwriter or rating bureau or the recommendations of Landlord's engineers or consultants (collectively, "**applicable laws**") or of the certificate of occupancy issued for the Building of which the Premises are a part, and shall, upon five (5) days' written notice from Landlord, discontinue any

use of the Premises that is declared by any governmental authority having jurisdiction to be a violation of applicable laws or of such certificate of occupancy. Without limiting the generality of the foregoing, Tenant shall comply with any direction of any governmental authority having jurisdiction or applicable laws that shall, by reason of the nature of Tenant's use or occupancy of the Premises, impose any duty upon Tenant or Landlord with respect to the Premises or with respect to the use or occupation of the Premises, including, but not limited to, the Americans with Disabilities Act of 1990 (42 United States Code section 12101 et seq.) and all amendments thereto and regulations promulgated thereunder (the "ADA"). If, as a result of the specific and unique use of the Premises by Tenant, compliance with any applicable laws requires structural modification of the Premises, Tenant shall be fully responsible for the cost thereof.

Without limiting the generality of the foregoing, Tenant shall comply with all applicable laws pertaining to industrial hygiene; environmental conditions on, in, under or about the Premises, including soil and groundwater conditions; and the use, disposal or removal of any Hazardous Substance (as hereafter defined). For purposes of this Lease, "**Hazardous Substance**" shall include, without limitation, any substance that on the date of this Lease or at any subsequent time is regulated or governed by, requires investigation or remediation under or is defined or listed as "hazardous substances," "hazardous wastes," "extremely hazardous wastes," "toxic substances," "medical wastes" or "restricted hazardous wastes" or stated to be known to cause cancer or reproductive toxicity in any federal, state or local statute, ordinance, rule or regulation applicable to the Premises, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (Title 42 United States Code sections 9601-9675); the Resource Conservation and Recovery Act (Title 42 United States Code sections 6901-6992k); the Carpenter-Presley-Tanner Hazardous Substance Account Act (California Health and Safety Code sections 25300-25395.15); the Hazardous Waste Control Law (California Health and Safety Code sections 25100-25250.25); the Hazardous Materials Transportation Act (Title 49 United States Code section 1801, et seq., as amended); the Federal Water Pollution Control Act (Title 33 United States Code section 1317 et seq., as amended); or Sections 25281 or 25501 of the California Health & Safety Code, as amended; or in regulations implementing any of the foregoing; or similar federal, state or local statutes and ordinances and their successor statutes and ordinances in effect from time to time; or in regulations implementing any of them; or that has been or shall be determined at any time by any governmental entity or court of competent jurisdiction to be a hazardous or toxic substance regulated under any such law. "**Hazardous Substance**" shall also include raw materials, building components, the products of any manufacturing or other activities on the Leasehold Improvements, wastes and petroleum in its various forms and source, special nuclear or by-product material as defined in the Atomic Energy Act of 1954 (Title 42 United States Code section 2011, et seq., as amended). "**Hazardous Substance**" further shall include any material, waste or substance that is (A) radon gas and petroleum or petroleum fractions, (B) asbestos or asbestos-containing materials, (C) polychlorinated biphenyls, (D) listed pursuant to the Clean Water Act (Title 33 United States Code section 1251 et seq., as amended), (E) a chemical substance or mixture regulated under the Toxic Substances Control Act of 1976 (Title 15 United States Code section 2601, et seq., as amended), (F) flammable explosives or (G) radioactive materials, whether or not defined as a hazardous waste or hazardous substance in any statute, ordinance, rule or regulation. "**Hazardous Substance**" further shall include such other substances, materials and wastes that are or become regulated as hazardous or toxic under applicable local, state or federal law or the United States government or that are classified as

hazardous or toxic under federal, state or local laws or regulations, including, but not limited to, medical and /or infectious waste.

5.03. Nuisance and Waste. Tenant shall not do or permit anything to be done in or about the Premises that will in any way obstruct or interfere with the rights of other tenants or occupants of the Building or injure or annoy them. Tenant shall not use or allow the Premises to be used for any improper, immoral, unlawful or objectionable purpose, nor shall Tenant cause, maintain or permit any nuisance in, on or about the Premises. Tenant shall not commit or suffer to be committed any waste in or upon the Premises.

## ARTICLE 6. CONDITION OF PREMISES

6.01. "As Is" Condition. By taking possession of the Premises, Tenant shall be conclusively presumed to establish that the Premises, the Building and the Leasehold Improvements were at such time in satisfactory condition. Tenant further, by taking possession of the Premises, expressly acknowledges and represents to Landlord that Tenant is accepting Tenant's interest in, and possession of, the Premises and the Leasehold Improvements in their present condition "as is," including, but not limited to, the physical condition and environmental aspects of the Premises, the nature and extent of the Leasehold Improvements (such as, but not limited to, carpeting, wall and window coverings, electrical outlets, fire sprinkler system, lighting fixtures and air-conditioning ducts and returns) and all applicable laws and matters shown in the public records affecting or related to the Premises, or any part thereof, including, but not limited to, building and safety codes, zoning ordinances, land use restrictions and regulations and other such matters. Tenant acknowledges and represents to Landlord that neither Landlord nor any agent or representative of Landlord has made any representation, warranty or promise with respect to the Premises, or any part thereof; that Tenant has satisfied itself with the condition of the Premises and the suitability of the Premises for Tenant's Intended Use; and that Tenant has made such investigations as Tenant deems necessary with reference to the Premises and assumes all responsibility therefor as the same relate to Tenant's occupancy thereof.

### 6.02. Alterations.

A. Landlord has no obligation, and has made no promise, to alter, remodel, improve, repair, decorate, paint, clean or otherwise do any work in or about the Premises, or any part thereof. Tenant hereby waives all rights under, and benefits of, Subsection 1 of Section 1932, Sections 1941 and 1942 of the California Civil Code and any similar law now or hereafter in effect.

B. Tenant shall make no alterations or improvements to the Premises ("**Alterations**") without the prior written consent of Landlord. At such time as Tenant requests approval of any Alterations, Tenant shall submit to Landlord complete plans and specifications with respect to the same and such other documents and information as Landlord shall request. Landlord may withhold its consent to such Alterations in its sole discretion for any reason, including, but not limited to, if the proposed Alterations would adversely affect the structure or safety of the Building or its electrical, plumbing, HVAC, mechanical or safety systems or if such proposed Alterations would create an obligation on Landlord's part to make modifications to the

Building (in order, for example, to comply with laws such as the ADA mandating Building accessibility for persons with disabilities).

C. Tenant acknowledges that installation of telephone lines, cables and other electronic telecommunications services and equipment shall be subject to this provision. Tenant further acknowledges that the installation of voice equipment or low-voltage cabling that may result in Tenant's utilization of the Building's telecommunications equipment rooms shall be subject to this provision. The placement of any such voice equipment or low-voltage must be approved by Landlord as well as the Telecommunications Department of Sutter Health and otherwise shall be subject to the terms and provisions of Section 6.03.

D. Any approved Alterations shall be completed by Tenant at Tenant's sole cost and expense: (1) with due diligence, in a good and workmanlike manner, using new materials; (2) in compliance with plans and specifications approved by Landlord; (3) in compliance with the construction rules and regulations promulgated by Landlord from time to time; (4) in accordance with all applicable laws (including all work, whether structural or non-structural, inside or outside the Premises, required to comply fully with all applicable laws and necessitated by Tenant's work); and (5) subject to all conditions that Landlord may impose. Such conditions may include requirements for Tenant to: (1) provide payment or performance bonds or additional insurance (from Tenant or Tenant's contractors, subcontractors or design professionals); (2) use contractors or subcontractors designated by Landlord; (3) remove all or part of the Alterations prior to or upon expiration or termination of the Term, as designated by Landlord; and (4) have all work performed outside of normal business hours for the Building. If any work outside the Premises, or any work on or adjustment to any of the Building systems, is required in connection with or as a result of Tenant's work, such work shall be performed at Tenant's expense by contractors designated by Landlord. Landlord's right to review and approve (or withhold approval of) Tenant's plans, drawings, specifications, contractor(s) and other aspects of construction work proposed by Tenant is intended solely to protect Landlord, the Building and Landlord's interests. No approval or consent by Landlord shall be deemed or construed to be a representation or warranty by Landlord as to the adequacy, sufficiency, fitness or suitability thereof or compliance thereof with applicable laws or other requirements. All Alterations shall upon installation become part of the realty and be the property of Landlord, subject to removal as provided herein. Before making any Alterations, Tenant shall submit to Landlord, for Landlord's prior approval, reasonably detailed final plans and specifications prepared by a licensed architect or engineer; a copy of the construction contract, including the name of the contractor and all subcontractors proposed by Tenant to make the Alterations; and a copy of the contractor's license. Tenant shall reimburse Landlord upon demand for any expenses reasonably incurred by Landlord in connection with any Alterations made by Tenant, including reasonable fees charged by Landlord's contractors or consultants to review plans and specifications prepared by Tenant and to update the existing as-built plans and specifications of the Building to reflect the Alterations. Tenant shall obtain all applicable permits, authorizations and governmental approvals and deliver copies of the same to Landlord before commencement of any Alterations.

### 6.03. Telecommunications.

A. Tenant acknowledges and agrees that all telephone and telecommunications services desired by Tenant shall be ordered and utilized at the sole expense of Tenant. All of Tenant's telecommunications equipment shall be and remain solely in the Premises and the telephone closet servicing the Premises, in accordance with written rules and regulations adopted by Landlord from time to time. Landlord shall have no responsibility for the maintenance of Tenant's telecommunications equipment, including wiring, nor for any wiring or other infrastructure to which Tenant's telecommunications equipment may be connected. Tenant agrees that, to the extent any such service is interrupted, curtailed or discontinued, Landlord shall have no obligation or liability with respect thereto and it shall be the sole obligation of Tenant at Tenant's expense to obtain substitute service.

B. Landlord shall have the right, upon reasonable prior notice to Tenant, to interrupt or turn off telecommunications facilities in the event of emergency or as necessary in connection with repairs to the Building or installation of telecommunications equipment for other tenants of the Building.

C. In the event that Tenant wishes at any time to utilize the services of a telephone or telecommunications provider whose equipment is not then servicing the Building, no such provider shall be permitted to install its lines or other equipment within the Building without first securing the prior written approval of Landlord.

D. Except as specifically authorized and approved in this Lease, Tenant shall not utilize any wireless communications equipment (other than usual and customary cellular telephones), including antennae and satellite receiver dishes, within the Premises or the Building, without Landlord's prior written consent.

E. In the event that telecommunications equipment, wiring and facilities or satellite and antennae equipment of any type installed by or at the request of Tenant within the Premises, on the roof or elsewhere within or on the Building, including, but not limited to, wireless communications equipment, causes interference to equipment used by another party, including, but not limited to, Landlord, Tenant shall assume all liability related to such interference. Tenant shall use reasonable efforts, and shall cooperate with Landlord and other parties, promptly to eliminate such interference. In the event that Tenant is unable to eliminate such interference, Tenant will substitute alternative equipment that remedies the situation. If such interference persists notwithstanding such substitute alternative equipment, Tenant shall discontinue the use of such equipment, and, at Landlord's discretion, remove such equipment according to the foregoing specifications and as otherwise provided in this Lease.

F. Landlord shall have no liability whatsoever to Tenant if wireless pathways cross and Landlord or other tenants of the Building intercept data of Tenant.

### 6.04. Maintenance and Repair.

A. Except as otherwise expressly provided in this Lease, Tenant shall keep and maintain the Premises, and every part thereof, in first (1st)-class sanitary condition, repair and appearance, reasonable and normal wear and tear excepted. Tenant's repair and maintenance

obligations include, without limitation, repairs to (1) floor coverings; (2) interior partitions; (3) doors; (4) the interior side of demising walls; (5) electronic, fiber, phone and data cabling and related equipment that is installed by or for the exclusive benefit of Tenant; (6) supplemental air conditioning units, kitchens, including hot water heaters, plumbing and similar facilities exclusively serving Tenant; and (7) Alterations.

B. Landlord shall repair and maintain the structural portions of the Building (including foundations, the exterior walls and the roof) and the mechanical, electrical and plumbing systems of the Building (except as otherwise provided in Section 6.04A) and Common Areas unless such maintenance and repairs are caused in part or in whole by the act, neglect, fault or omission of any duty by Tenant, Tenant's agents, servants, employees or invitees, in which case Tenant shall pay to Landlord, as additional rent, the reasonable cost of such maintenance and repairs. Landlord shall not be liable for any failure to make any such repairs or maintenance until Tenant gives notice of the need therefor, which notice may be by phone in the event of an urgent repair need. Except as otherwise expressly provided in this Lease, there shall be no abatement of Rent and no liability of Landlord by reason of any injury to or interference with Tenant's business arising from the making of any repairs, alterations or improvements in or to any portion of the Building or the Premises or in or to fixtures, appurtenances and equipment therein.

6.05. Liens. Tenant shall not permit any mechanics', materialmen's or other liens to be filed against the real property of which the Premises form a part or against Tenant's leasehold interest in the Premises. Tenant shall give Landlord not less than ten (10) days' notice prior to the commencement of any work in, on or about the Premises and Landlord shall have the right at all reasonable times to post and keep posted on the Premises any notices that it deems necessary for protection from such liens. If such liens are filed in connection with any work performed by Tenant or Tenant's agents or contractors, Landlord may pay or satisfy them, or post and obtain bonds on them, and any sums so paid, with interest thereon from the date of expenditure by Landlord at the rate of ten percent (10%) per annum, will constitute additional rent immediately due and payable by Tenant.

6.06. Entry by Landlord. Landlord reserves and shall at reasonable times have the right to enter the Premises to inspect the same; to supply janitorial service and any other service to be provided by Landlord to Tenant hereunder; to submit the Premises to prospective purchasers or tenants; to post notices of nonresponsibility; or to alter, improve or repair the Premises or any other portion of the Building, all without being deemed guilty of any eviction of Tenant and without abatement of Rent, except as may be otherwise specifically provided in this Lease. Landlord may, in order to carry out such purposes, erect scaffolding and other necessary structures where reasonably required by the character of the work to be performed. For each such purpose, Landlord shall have and retain a key with which to unlock all of the doors in, upon and about the Premises, excluding Tenant's vaults and safes, and Landlord shall have the right to use any and all means that Landlord may deem proper to open said doors in an emergency in order to obtain entry to the Premises. Except as otherwise expressly required herein to be performed by Landlord, no provision of this Lease shall be construed as obligating Landlord to perform any repairs, Alterations or decorations.

ARTICLE 7. UTILITIES AND OTHER SERVICES; TAXES; INSURANCE;  
INDEMNIFICATION; EXEMPTION FROM AND LIMITATION OF  
LIABILITY

7.01. Utilities and Other Services. Provided that Tenant is not in default hereunder, Landlord agrees to furnish to the Premises, as part of Direct Expenses, reasonable quantities of electric current for normal lighting and ordinary medical office equipment and machines; water for lavatory and drinking purposes; heat and air conditioning required for the comfortable use and occupation of the Premises between the hours of 7:00 a.m. and 6:00 p.m. Monday through Friday, excluding holidays, subject to such rules and regulations as may be adopted by Landlord from time to time (Landlord reserves the right upon Tenant's request for heat and air conditioning or other utilities after standard business hours or on non-business days to charge Tenant for such services on an hourly basis at the then prevailing rate established for the Building by Landlord that reasonably estimates the cost of the electrical or other utilities service and is appropriate under public utilities laws that may apply from time to time, which rate is, as of the Effective Date, Twenty-Five Dollars (\$25.00) per hour and is subject to change, in Landlord's discretion, in accordance with this Section 7.01); janitorial service in all accessible areas (excluding the collection and storage within the Premises and disposal offsite of Hazardous Substance and/or biohazard waste and janitorial service in non-accessible areas, for which Tenant shall be solely responsible by way of entering into a separate service agreement); and (if the Building has three (3) or more floors) elevator service by unattended automated elevators. Landlord shall not be liable for, and Tenant shall not be entitled to, any abatement or reduction of Rent by reason of Landlord's failure to furnish any of the foregoing when such failure is caused by accident, breakage, repairs, strikes, lockouts or other labor disturbances or labor disputes of any character or for any other causes beyond Landlord's control. The term "**ordinary medical office equipment and machines**" shall include, but not be limited to, typewriters, adding machines, calculators, word processing and data processing equipment, Xerox-type copying equipment and lunchroom-type appliances such as one (1) or more refrigerators, one (1) or more microwave ovens and one (1) or more vending machines, all for the exclusive use of Tenant's employees. Landlord shall have the right to install a separate meter for any electrical or other utilities service provided to the Premises if Landlord reasonably believes that Tenant's usage substantially exceeds standard electrical or other utilities usage of other tenants in the Building. Tenant shall be responsible for all costs of providing such a meter and for charges for such metered electricity or other utilities.

7.02. Taxes on Tenant's Property. Tenant shall be liable for and shall pay before delinquency all taxes levied against any personal property or trade fixtures placed by Tenant in or about the Premises. Tenant shall have the right, however, at Tenant's sole cost and expense, to protest the payment of such taxes and to defer payment thereof until the protest has been finally resolved by giving to Landlord written notice thereof prior to the commencement of any contest, which shall be at least fifteen (15) days prior to any delinquency, and by protecting Landlord on demand by a good and sufficient surety bond against any tax, levy, assessment, rate or government charge and from any costs, liability or damage arising out of a contest.

7.03. Insurance.

A. Tenant shall during the entire Term hereof, at Tenant's sole cost and expense, obtain, maintain and keep in full force and effect, for the protection of Tenant, Landlord and mortgagees of Landlord as their interest may appear, the following insurance:

(1) Property Insurance (at least as broad as ISO Special Form Causes of Loss CP 1030) upon property of every description and kind owned by Tenant and located in the Building or for which Tenant is legally liable or installed by or on behalf of Tenant, including, without limitation, furniture, fittings, tenant improvements, fixtures and any other personal property, in an amount not less than one hundred percent (100%) of the full replacement cost thereof with an agreed amount endorsement;

(2) Commercial General Liability Insurance (comparable to the ISO Commercial General Liability policy form CG 00 01), coverage to include personal injury, bodily injury, property damage, contractual liability, products and completed operations liability arising out of or relating (directly or indirectly) to Tenant's business operations, conduct, assumed liabilities or use or occupancy of the Premises or the Building in limits not less than Two Million Dollars (\$2,000,000.00) per occurrence/Two Million Dollars (\$2,000,000.00) annual aggregate;

(3) Worker's Compensation Insurance, as required by California law, and Employers Liability Insurance with limits of One Million Dollars (\$1,000,000.00) Per Accident/One Million Dollars (\$1,000,000.00) Per Disease/One Million Dollars (\$1,000,000.00) Policy Limit Insurance; and

(4) Business Automobile Bodily Injury and Property Damage Insurance covering all owned, hired and non-owned autos in a combined single limit of One Million Dollars (\$1,000,000.00) each accident.

B. All policies shall be taken out with third party insurers admitted in California with an A.M. Best rating of A VII or better. The commercial general liability and automobile policies shall name Landlord as an additional insured. The additional insured status for the commercial general liability policy shall be secured through use of an endorsement comparable to the Commercial General Liability ISO form CG 20 11 (Additional Insured-Managers or Lessors of Premises). The property policy shall name Landlord as loss payee as respects its interest in the Leasehold Improvements. Tenant's policies shall stipulate that the insurance is primary and that any insurance carried by Landlord shall be excess and not contributory. Tenant agrees that certificates of insurance on the insurer's standard form, with additional insured and loss payee endorsements attached, will be delivered to Landlord as soon as practicable after placing of the required insurance, but in no event later than ten (10) days after Tenant takes possession of all or any part of the Premises. All policies shall contain an agreement by the insurers to notify Landlord and the mortgagees of Landlord in writing not less than thirty (30) days prior to any material change, reduction in coverage by endorsement, cancellation or other termination thereof. Not less than thirty (30) days prior to the expiration of each policy, a notice of renewal shall be delivered to Landlord. Landlord may request certified copies of Tenant's policies to be provided to Landlord, after ten (10) days written notice to Tenant.

C. Landlord will accept Tenant's pooled insurance through Bay Cities Joint Powers Insurance Authority in lieu of the requirements of this Section 7.03, and Tenant shall provide Landlord with copies of Tenant's policies related to commercial general liability, property, worker's compensation and employer's liability insurance.

D. In the event of damage to or destruction of the Building entitling Landlord to terminate this Lease pursuant to Article 8 hereof, if the Premises also have been damaged, and, if Landlord does elect to terminate this Lease, Tenant will immediately pay to Landlord all of Tenant's insurance proceeds relating to the Leasehold Improvements and Alterations in the Premises. If the Premises have not been damaged, and Landlord terminates this Lease, Tenant will deliver to Landlord the Leasehold Improvements, the Alterations and the Premises all in such condition as required by and otherwise in accordance with the provisions of this Lease.

E. Tenant agrees that Tenant will not keep, use, sell or offer for sale in or upon the Premises any article that may be prohibited by any insurance policy in force from time to time covering the Building, the Premises or the Leasehold Improvements. If Tenant's occupancy or conduct of business in or on the Premises, whether or not Landlord has consented to the same, results in any increase in premiums for the insurance carried from time to time by Landlord with respect to the Building, the Premises or the Leasehold Improvements, Tenant shall pay any such increase in premiums as additional rent within ten (10) days after being billed therefor by Landlord. In determining whether increased premiums are a result of Tenant's use or occupancy of the Premises, a schedule issued by the organization computing the insurance rate in the Building or the Leasehold Improvements showing the various components of such rate, shall be conclusive evidence of the several items and charges that make up such rate. Tenant shall promptly comply with all reasonable requirements of the insurance authority or of any insurer now or hereafter in effect relating to the Premises.

F. If any insurance policy carried by Landlord shall be canceled or cancellation shall be threatened or the coverage thereunder reduced or threatened to be reduced in any way by reason of the use or occupation of the Premises, or any part thereof, by Tenant or by any assignee or subtenant of Tenant or by anyone permitted by Tenant to be upon the Premises and, if Tenant fails to remedy the condition giving rise to cancellation, threatened cancellation or reduction of coverage within forty-eight (48) hours after notice thereof, Landlord may, at its option, either terminate this Lease or enter upon the Premises and attempt to remedy such condition and Tenant shall forthwith pay the cost thereof to Landlord as additional rent. Landlord shall not be liable for any damage or injury caused to any property of Tenant or of others located in the Premises as a result of such entry. If Landlord shall be unable to remedy such condition, then Landlord shall have all of the remedies provided for in this Lease in the event of a default by Tenant. Notwithstanding the foregoing provisions of this Section 7.03, if Tenant fails to remedy as aforesaid, Tenant shall be in default of Tenant's obligation hereunder and Landlord shall have no obligation to attempt to remedy such default.

7.04. Indemnification. Tenant agrees to protect, indemnify and defend Landlord and its agents, employees and representatives against and save Landlord and its agents, employees and representatives harmless from any and all loss, cost, liability, damage and expense, including, without limitation, reasonable attorney's fees and costs and fees and costs of expert witnesses, and including death and injury of employees of Tenant, incurred in connection with or arising

from: (A) any default by Tenant in the observance or performance of any of the terms, covenants or conditions of this Lease on Tenant's part to be observed or performed; (B) the use or occupancy or manner of use or occupancy of the Premises by Tenant, Tenant's agents, servants, employees, contractors or invitees or any entity claiming through or under Tenant; (C) the condition of the Premises or any occurrence on the Premises from any cause whatsoever, including, but not limited to the use, storage and disposal of Hazardous Substance by Tenant, Tenant's agents, servants, employees, contractors, invitees or any entity claiming through or under Tenant, except to the extent caused by the gross negligence or willful misconduct of Landlord; (D) Tenant's conducting of Tenant's business; or (E) any acts, omissions or negligence of Tenant, Tenant's agents, servants, employees, contractors or invitees in, on or about the Premises. In case any action or proceeding is brought against Landlord by reason of any such matter, Tenant upon notice from Landlord shall defend the same at Tenant's expense, by counsel reasonably satisfactory to Landlord, and Landlord shall cooperate with Tenant in such defense. Landlord need not first have paid any such claim in order to be so indemnified. Tenant's obligations under this Section 7.04 shall survive the termination of this Lease.

7.05. Waiver of Subrogation. Landlord and Tenant hereby waive and shall cause their respective insurance carriers to waive any and all rights of recovery, claims, actions or causes of action against the other for any loss or damage with respect to Tenant's fixtures or personal property, the Leasehold Improvements, the Building and the Premises, or any contents thereof, including rights, claims, actions and causes of action based on negligence, which loss or damage is (or would have been, had the insurance required by this Lease been carried) covered by insurance.

7.06. Exemption of Landlord from Liability. Tenant, as a material part of the consideration to Landlord, hereby assumes all risk of damage to property or injury to persons in, upon or about the Premises from any cause other than Landlord's gross negligence or intentional misconduct and waives all claims in respect thereof against Landlord. Without limiting the generality of the foregoing, Tenant hereby agrees that Landlord shall not be liable for (A) injury to Tenant's business or any loss of income or profit therefrom; (B) loss of or damage to the goods, wares, merchandise or other property of Tenant, Tenant's employees, invitees, customers or any other person in or about the Premises or the Building; (C) injury to Tenant, Tenant's employees, agents, invitees or contractors, whether such damage or injury is caused by or results from theft, fire, steam, electricity, gas, water or rain, or from breakage, leakage, obstruction or other defects of pipes, sprinklers, wires, appliances, plumbing, air conditioning or lighting fixtures or from any other cause; whether said damage or injury results from conditions arising upon the Premises, other portions of the Building or other sources or places, including from new construction or the repair, alteration or improvement of any part of the Building or of the equipment, fixtures or appurtenances applicable thereto, and regardless of whether the cause of such damage or injury or the means of repairing the same is inaccessible; or (D) any damages arising from any act or neglect of any other tenant, occupant or user of the Building.

7.07. Limitation of Landlord's Liability. THE OBLIGATIONS OF LANDLORD SHALL NOT CONSTITUTE PERSONAL OBLIGATIONS OF THE OFFICERS, DIRECTORS, TRUSTEES, PARTNERS, JOINT VENTURERS, MEMBERS, MANAGERS, OWNERS, STOCKHOLDERS OR OTHER PRINCIPALS OR REPRESENTATIVES OR AFFILIATES OF LANDLORD AND TENANT SHALL NOT HAVE RECOURSE TO THE

ASSETS OF SUCH OFFICERS, DIRECTORS, TRUSTEES, PARTNERS, JOINT VENTURERS, MEMBERS, MANAGERS, OWNERS, STOCKHOLDERS OR OTHER PRINCIPALS OR REPRESENTATIVES OR AFFILIATES OF LANDLORD UNDER THIS LEASE. TENANT SHALL LOOK SOLELY TO LANDLORD'S INTEREST IN THE BUILDING OF WHICH THE PREMISES ARE A PART FOR RECOVERY OF ANY JUDGMENT OR AWARD AGAINST LANDLORD OR ANY TRUSTEES, MEMBERS, PRINCIPALS, BENEFICIARIES, PARTNERS, OFFICERS, DIRECTORS OR EMPLOYEES OF LANDLORD AND SHALL HAVE NO RECOURSE TO ANY OTHER ASSETS OF LANDLORD. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS LEASE, THE LIABILITY OF LANDLORD (AND OF ANY SUCCESSOR LANDLORD) SHALL BE LIMITED TO THE LESSER OF (A) THE INTEREST OF LANDLORD IN THE BUILDING OF WHICH THE PREMISES ARE A PART OR (B) THE EQUITY INTEREST LANDLORD WOULD HAVE IN THE BUILDING IF THE BUILDING WERE ENCUMBERED BY THIRD PARTY DEBT IN AN AMOUNT EQUAL TO SEVENTY PERCENT (70%) OF THE VALUE OF THE BUILDING.

#### ARTICLE 8. DAMAGE OR DESTRUCTION; TAKING

##### 8.01. Casualty Damage.

A. If all or any portion of the Premises becomes untenable by fire or other casualty to the Premises (collectively a "**Casualty**"), Landlord, with reasonable promptness, shall cause a general contractor selected by Landlord to provide Landlord and Tenant with a written estimate of the amount of time required using standard working methods to substantially complete the repair and restoration of the Premises and any Common Areas necessary to provide access to the Premises (the "**Completion Estimate**"). If the Completion Estimate indicates that the Premises or any Common Areas necessary to provide access to the Premises cannot be made tenable within two hundred seventy (270) days from the date the repair is started, then either party shall have the right to terminate this Lease upon written notice to the other within thirty (30) days after receipt of the Completion Estimate. Tenant, however, shall not have the right to terminate this Lease if the Casualty was caused by the negligence or intentional misconduct of Tenant or Tenant's trustees, members, principals, beneficiaries, partners, officers, directors, employees or agents.

B. If this Lease is not terminated, Landlord shall promptly and diligently, subject to reasonable delays for insurance adjustment or other matters beyond Landlord's reasonable control, restore the Premises and Common Areas. Such restoration shall be to substantially the same condition that existed prior to the Casualty, except for modifications required by law or any other modifications to Common Areas deemed desirable by Landlord. Upon notice from Landlord, Tenant shall assign or endorse over to Landlord (or to any party designated by Landlord) all property insurance proceeds payable to Tenant under Tenant's insurance with respect to any improvements, including, but not limited to, Leasehold Improvements and/or Alterations, performed by or for the benefit of Tenant; provided if the estimated cost to repair such improvements exceeds the amount of insurance proceeds received by Landlord from Tenant's insurance carrier, the excess cost of such repairs shall be paid by Tenant to Landlord prior to Landlord's commencement of repairs. Within fifteen (15) days of

demand, Tenant shall also pay Landlord for any additional excess costs that are determined during the performance of the repairs. In no event shall Landlord be required to spend more for the restoration than the proceeds received by Landlord, whether insurance proceeds or proceeds from Tenant.

8.02. Destruction During Last One Hundred Eighty Days of Term. Notwithstanding anything else in this Article 8 to the contrary, if the Building is damaged or destroyed and there are less than one hundred eighty (180) days of the Term remaining on the date of the Casualty, Landlord may terminate this Lease by giving notice to Tenant within ninety (90) days after the date of the Casualty.

8.03. Release. Upon any termination of this Lease under any of the provisions of this Article 8, the parties shall be released thereby without further obligation to the other from the date possession of the Premises is surrendered to Landlord except for items that have theretofore accrued and are then unpaid and other obligations provided for herein that are by their express terms to survive the expiration or termination of this Lease. In those circumstances where Tenant has not been able to continue Tenant's then-existing use of the Premises due to the damage or destruction, and this Lease is terminated, possession will be deemed to have been surrendered as of the date of damage or destruction and any Rent paid by Tenant thereafter shall be promptly refunded to it.

8.04. Abatement. Provided that Tenant is not in default, in the event of repair, reconstruction and restoration by Landlord as herein provided, the rental provided to be paid under this Lease shall be abated proportionately with the degree to which Tenant's use of the Premises is impaired during the period of such repair, reconstruction or restoration. Tenant shall not be entitled to any compensation or damage for loss in the use of the whole or any part of the Premises and/or inconvenience or annoyance or injury to Tenant's business occasioned in any way by such damage, repair, reconstruction or restoration. Tenant shall not be released from any of Tenant's obligations under this Lease except to the extent and upon the conditions expressly stated in this Article 8.

8.05. Force Majeure. Notwithstanding anything to the contrary contained in this Article 8, should Landlord be delayed or prevented from repairing or restoring the damaged Premises within one hundred eighty (180) days after the occurrence of such damage or destruction by reason of acts of God, war, governmental restrictions, inability to procure the necessary labor or materials or other cause beyond the control of Landlord, Landlord shall be relieved of its obligation to make such repairs or restoration and Tenant shall be released from Tenant's obligations under this Lease as of the end of said one hundred eighty (180) day period, except for items that have theretofore accrued and are then unpaid and other obligations provided for herein that are by their express terms to survive the expiration or termination of this Lease.

8.06. Uninsured Casualty. Notwithstanding anything else in this Article 8 to the contrary, if damage is due to any cause other than fire or other peril covered by extended coverage insurance, Landlord may elect to terminate this Lease by giving notice to Tenant within ninety (90) days after the date of the Casualty.

8.07. Waiver. The provisions of California Civil Code section 1932, subsection 2, and section 1933, subsection 4, are hereby waived by Tenant.

8.08. Condemnation. Either party may terminate this Lease if any material part of the Premises is taken or condemned for any public or quasi-public use under law, by eminent domain or private purchase in lieu thereof (a "**Taking**"). Landlord shall also have the right to terminate this Lease if there is a Taking of any portion of the Building that would have a material adverse effect on Landlord's ability to operate profitably the remainder of the Building. The terminating party shall provide written notice of termination to the other party within forty-five (45) days after it first receives notice of the Taking. The termination shall be effective as of the effective date of any order granting possession to, or vesting legal title in, the condemning authority. If this Lease is not terminated, Base Rent and Tenant's Share shall be appropriately adjusted to account for any reduction in the square footage of the Building or the Premises. All compensation awarded for a Taking shall be the property of Landlord. The right to receive compensation or proceeds is expressly waived by Tenant, however, Tenant may file a separate claim for Tenant's personal property or fixtures and Tenant's reasonable relocation expenses, provided the filing of the claim does not diminish the amount of Landlord's award. If only a part of the Premises is subject to a Taking and this Lease is not terminated, Landlord, with reasonable diligence, will restore the remaining portion of the Premises as nearly as practicable to the condition immediately prior to the Taking. Tenant hereby waives any and all rights Tenant might otherwise have pursuant to Section 1265.130 of the California Code of Civil Procedure, or any similar or successor laws.

#### ARTICLE 9. DEFAULT AND REMEDIES

9.01. Events of Default. The occurrence of any one (1) or more of the following events shall constitute a default hereunder by Tenant:

- A. The abandonment of the Premises by Tenant.
- B. An assignment or subletting of the Premises, or any portion thereof, in violation of the provisions of this Lease.
- C. The failure of Tenant to maintain the insurance that Tenant is required to maintain pursuant to the provisions of this Lease.
- D. The failure to deliver an estoppel certificate as required by this Lease where such failure continues for five (5) days after written notice thereof.
- E. The failure by Tenant to make any payment of Base Rent, Additional Rent or any other payment required to be made by Tenant hereunder, as and when due, where such failure shall continue for a period of ten (10) days after written notice thereof from Landlord to Tenant.
- F. The failure by Tenant to observe or perform any of the express or implied covenants or provisions of this Lease to be observed or performed by Tenant, other than as specified in Section 9.01A, Section 9.01B, Section 9.01C, Section 9.01D or Section 9.01E above, where such failure shall continue for a period of thirty (30) days after written notice thereof from Landlord to Tenant; provided, however, that if the nature of Tenant's default is such that more than thirty (30) days are reasonably required for its cure, then Tenant shall not be deemed to be

in default if Tenant shall commence such cure within such thirty (30)-day period and thereafter diligently prosecute such cure to completion, which completion shall occur not later than sixty (60) days from the date of such written notice; and provided further, however, that if any such failure involves a hazardous or dangerous condition, Tenant shall be in default hereunder if such failure is not cured by Tenant immediately upon notice to Tenant.

G. (1) The making by Tenant of any general assignment for the benefit of creditors; (2) the filing by or against Tenant of a petition to have Tenant adjudged a bankrupt or a petition for reorganization or arrangement under any law relating to bankruptcy (unless, in the case of a petition filed against Tenant, the same is dismissed within thirty (30) days); (3) 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 (4) the attachment, execution or other judicial seizure of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease where such seizure is not discharged within thirty (30) days.

9.02. Termination Upon Default. In the event of any such default by Tenant, in addition to any other remedies available to Landlord at law or in equity, Landlord shall have the immediate option to terminate this Lease and all rights of Tenant hereunder. In the event that Landlord shall elect to so terminate this Lease, then Landlord may recover from Tenant:

A. The worth at the time of award of any unpaid Rent that had been earned at the time of such termination; plus

B. The worth at the time of award of the amount by which the unpaid Rent that would have been earned after termination until the time of award exceeds the amount of such rental loss that Tenant proves could have been reasonably avoided; plus

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 be reasonably avoided; and

D. Any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform Tenant's obligations under this Lease or that in the ordinary course of things would be likely to result therefrom, including brokerage commissions and advertising expenses, expenses of remodeling the Premises for a new tenant (whether for the same or a different use) and any special concessions made to obtain a new tenant; and

E. Any other amounts, in addition to or in lieu of those listed above, that may be permitted by applicable law.

As used in Section 9.02A and Section 9.02B above, the "worth at the time of award" is computed by allowing interest at ten percent (10%) per annum. As used in Section 9.02C above, the "worth at the time of award" is computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus one percent (1%).

9.03. Section 1951.4 Remedy. In the event of any such default by Tenant, Landlord also shall have the right to continue this Lease in full force and effect as provided in Section 1951.4 of the California Civil Code and this Lease shall continue in effect as long as Landlord does not terminate Tenant's right to possession and Landlord shall have the right to collect all sums due hereunder, including, but not limited to, Base Rent and Additional Rent, when due.

9.04. Subsequent Election. Notwithstanding Landlord's exercise of the remedy described in California Civil Code section 1951.4 in respect of an event or events of default, Landlord may, at anytime thereafter, elect in writing, to terminate this Lease and Tenant's right to possession of the Premises and recover an award of damages as provided above in Section 9.02.

9.05. Rights Cumulative. All rights, options and remedies of Landlord contained in this Lease shall be construed and held to be cumulative, no one (1) of them shall be exclusive of the other and Landlord shall have the right to pursue any one (1) or all of such remedies or any other remedy or relief that may be provided by law, whether or not stated in this Lease.

9.06. Tenant's Waiver. TENANT HEREBY WAIVES ANY AND ALL RIGHTS CONFERRED BY SECTION 3275 OF THE CALIFORNIA CIVIL CODE, SECTIONS 1174(c) AND 1179 OF THE CALIFORNIA CODE OF CIVIL PROCEDURE AND ANY AND ALL OTHER LAWS AND RULES OF LAW FROM TIME TO TIME IN EFFECT DURING THE LEASE TERM THAT PROVIDE THAT TENANT SHALL HAVE ANY RIGHT TO REDEEM, REINSTATE OR RESTORE THIS LEASE FOLLOWING ITS TERMINATION BY REASON OF TENANT'S BREACH.

9.07. Breach by Landlord. Landlord shall not be deemed in breach of this Lease unless Landlord fails within a reasonable time to perform an obligation required to be performed by Landlord. For purposes hereof, a reasonable time shall in no event be less than thirty (30) days after receipt by Landlord, and any mortgagee of Landlord whose name and address have been furnished to Tenant in writing, of written notice from Tenant given in accordance with Section 11.15 specifying the obligation of Landlord that has not been performed, including, but not limited to, the nature and scope of such obligation.

## ARTICLE 10. SUCCESSORS

10.01. Assignment and Subletting. Tenant's interest in this Lease is not assignable, in whole or in part, either voluntarily or by operation of law; nor shall Tenant's interest in this Lease be encumbered by deed of trust, mortgage or otherwise; nor shall Tenant have the right to sublet or license or allow another party to use or occupy the Premises, or any part thereof, without the prior written consent of Landlord, which consent shall not be unreasonably withheld. In addition to other reasonable bases, Tenant hereby agrees that Landlord shall be deemed to be reasonable in withholding its consent to any assignment, subletting, license, encumbrance, use or occupation if any such assignment, subletting, license, encumbrance, use or occupation is likely to trigger ADA compliance requirements. Landlord further shall have the right to condition the giving of any such consent, including, but not limited to, requiring that the proposed sublessee, assignee or licensee deposit with Landlord a sum equal to one (1) month's rent of the then current Base Rent as a security deposit for the faithful performance of all of the terms, covenants and conditions of this Lease to be kept and performed by Tenant during the Term hereof. Such



security deposit, if required, shall be paid to Landlord prior to the effective date of any such proposed sublease, assignment or license. Tenant shall, upon demand, reimburse Landlord for all attorneys' fees and reasonable costs incurred by Landlord in connection with the review and/or preparation of documents in connection with any such proposed assignment, subletting, license, encumbrance, use or occupation. In the event any assignment, subletting, license, encumbrance, use or occupation, to which Landlord has consented, results in ADA compliance requirements, the transferee shall bear all costs and expenses associated with such ADA compliance requirements. Any assignment, subletting, license, encumbrance, use or occupation without the written consent of Landlord as provided herein shall be void and shall, at the option of Landlord, constitute a material breach of this Lease. If Tenant is a corporation, partnership or other entity, a change of ownership, whether voluntarily or by operation of law, and whether in one (1) transaction or as a cumulative result of more than one (1) transaction, of twenty-five percent (25%) or more of the interest in Tenant shall constitute an assignment by Tenant of this Lease requiring consent from Landlord as above provided.

10.02. No Release of Tenant. No consent by Landlord to any assignment or sublease shall relieve Tenant of any obligation, financial or otherwise, to be performed by Tenant under this Lease, whether occurring before or after such consent, assignment, subletting or other transfer. Each transferee shall be jointly and severally liable with Tenant (and Tenant shall be jointly and severally liable with each transferee) for the payment of Rent (or, in the case of a sublease, rent in the amount set forth in the sublease) and for the performance of all other terms and provisions of this Lease. The consent by Landlord to any assignment or sublease shall not relieve Tenant or any such transferee from the obligation to obtain Landlord's express prior written consent to any subsequent assignment or sublease by Tenant or any transferee. The acceptance of Rent by Landlord from any other person shall not be deemed to be a waiver by Landlord of any provision of this Lease or to be a consent to any assignment or sublease.

10.03. Successors and Assigns. Except as otherwise provided in this Lease, all of the covenants, conditions and provisions of this Lease shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and assigns.

10.04. Surrender of Premises. The voluntary or other surrender of this Lease by Tenant, or a mutual cancellation thereof, shall not work a merger and shall, at the option of Landlord, operate as an assignment to it of any or all subleases or subtenancies.

10.05. Definition of Landlord. The term "**Landlord**" as used in this Lease, so far as covenants or obligations on the part of Landlord are concerned, shall be limited to mean and include only the owner or owners, at the time in question, of the fee of the Premises. In the event of any transfer, assignment or other conveyance or transfers of any such title or leasehold, Landlord herein named (and in case of any subsequent transfers or conveyances, the then grantor) shall be automatically freed and relieved from and after the date of such transfer, assignment or conveyance of all liability as respects the performance of any covenants or obligations on the part of Landlord contained in this Lease thereafter to be performed and, without further agreement, the transferee of such title shall be deemed to have assumed and agreed to observe and perform any and all obligations of Landlord hereunder during its ownership of the Premises. Landlord may transfer its interest in the Premises without the

consent of Tenant and such transfer or subsequent transfer shall not be deemed a violation on Landlord's part of any of the terms and conditions of this Lease.

## ARTICLE 11. MISCELLANEOUS

11.01. Subordination. This Lease shall be subordinate to any permanent financing now or hereafter placed upon the Premises or the Building by Landlord. This Section 11.01 shall be self-operative and no further instrument of subordination shall be necessary unless required by the mortgagee. In that event, Tenant will execute such subordination instrument in recordable form within five (5) days of the date the same is delivered to Tenant.

11.02. Estoppel Certificate. Within ten (10) days following a written request by Landlord, Tenant shall execute and deliver to Landlord a statement certifying: (A) the date of commencement of this Lease; (B) the fact that this Lease is unmodified and in full force and effect (or, if there have been modifications thereto, that this Lease is in full force and effect, as modified, and stating the date and nature of such modifications); (C) the date to which the rental and other sums payable under this Lease have been paid; (D) the fact that there are no current defaults under this Lease, except as specified in such statement; and (E) such other matters as requested by Landlord. Landlord and Tenant intend that any statement delivered pursuant to this Section 11.02 may be relied upon by any mortgagee, beneficiary, purchaser or prospective purchaser of the Building, or any interest therein. If Tenant fails to deliver such statement within ten (10) days as required, Landlord shall be entitled to complete and deliver the same on behalf of Tenant and Tenant shall be estopped from asserting that the same is not true and accurate in all respects.

11.03. Rules and Regulations. Tenant shall faithfully observe and comply with such rules and regulations as adopted by Landlord from time to time with respect to the Premises, the Building, Common Areas or the parking facilities and all reasonable and nondiscriminatory modifications thereof and additions thereto from time to time put into effect by Landlord.

11.04. Choice of Laws. This Lease shall be governed by and construed in accordance with the laws of the State of California without giving effect to any conflicts of law.

11.05. Attorneys' Fees. If Landlord or Tenant should institute any legal action, arbitration, proceeding or other action to recover possession of the Premises, to recover any sum due under this Lease, because of the breach of any provision of this Lease or for any other relief against the other party hereunder, than all costs and expenses, including reasonable attorneys' fees and fees and costs of expert witnesses, incurred by the prevailing party therein, including those incurred in connection with preparing and serving any notices or other acts necessary to bring a proceeding on any provision of this Lease or any post-judgment or post-award proceeding to enforce any judgment or award, shall be paid by the other party, which obligation on the part of the other party shall be deemed to have accrued on the date of the commencement of such action and shall be enforceable whether or not the action is prosecuted to judgment or award. This provision is separate and several and shall survive the merger of this provision into any judgment or award.

11.06. Mortgagee Protection. Tenant agrees to give any mortgagee of Landlord, by registered mail, a copy of any notice of default served upon Landlord, provided that prior to such notice Tenant has been notified in writing (by way of notice of assignment of rents and leases, or otherwise) of the address of such mortgagee. If Landlord shall have failed to cure such default within thirty (30) days from the effective date of such notice of default, then the mortgagee shall have an additional thirty (30) days within which to cure such default or if such default cannot be cured within that time, then such additional time as may be necessary to cure such default (including the time necessary to foreclose or otherwise terminate its mortgage, deed of trust or other encumbrance on the Building, if necessary to effect such cure), and this Lease shall not be terminated so long as such remedies are being diligently pursued.

11.07. Waiver. No waiver of any default of Tenant hereunder shall be implied from any acceptance by Landlord of any Rent or other payments due hereunder or any failure of Landlord to enforce any remedy for the violation of a provision, even if that violation continues or is repeated, regardless of Landlord's knowledge of such preceding breach at the time of acceptance of such Rent, or otherwise. The waiver by Landlord of any breach of any term, covenant or condition herein contained must be in writing and shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition herein contained. The express consent or approval of Landlord to or of any act by Tenant requiring Landlord's consent or approval shall not be deemed to waive or render unnecessary Landlord's consent or approval to or of any subsequent or similar acts by Tenant.

11.08. Terms and Headings. The words "**Landlord**" and "**Tenant**" as used herein shall include the plural as well as the singular. Words used in any gender include other genders. If there be more than one (1) Tenant, the obligations hereunder imposed upon Tenant shall be joint and several. With the exception of Article 1, the section headings of this Lease are not part of this Lease and shall have no effect upon the construction or interpretation of any part thereof.

11.09. Time. Time is of the essence with respect to the performance of every provision of this Lease in which time or performance is a factor.

11.10. Severability. If any provision of this Lease shall, to any extent, be determined by a court of competent jurisdiction or an arbitrator to be invalid or unenforceable, the remainder of this Lease shall not be affected thereby, and each and every provision of this Lease shall be valid and enforceable to the fullest extent permitted by law, unless the effect of such severance would be to substantially alter this Lease or the obligations of the parties, in which case this Lease may be immediately terminated.

11.11. Consents. Unless expressly provided in this Lease to the contrary, whenever the consent of Landlord is required hereunder, such consent shall not be unreasonably withheld.

11.12. Riders and Exhibits. Clauses, plats and riders, if any, signed by Landlord and Tenant and affixed to this Lease and any exhibits attached hereto are made a part hereof.

11.13. Auctions and Signs. Tenant shall not conduct any auctions at the Premises. Subject to the limitations set forth below, Tenant further shall not place any sign upon the Premises or the Building without Landlord's prior written consent, which consent shall not be unreasonably withheld. Any signage approved by Landlord shall be placed upon the Premises or

the Building at Tenant's sole cost and expense, in accordance with the Sutter Health Sign Standards Manuals, as the same may be amended from time to time, and the Building's sign standards, if any, and in compliance with all applicable laws and regulations. Landlord shall have the right to remove any signs or other matter, installed without Landlord's written consent, without being liable to Tenant by reason of such removal, and to charge the cost of removal to Tenant as additional rent hereunder, payable within ten (10) days of written demand by Landlord. Landlord, at Tenant's sole cost and expense, will add Tenant's designated names on the directory board in the lobby of the Building.

11.14. Accord and Satisfaction. No payment by Tenant or receipt by Landlord of a lesser amount than the Rent payment herein stipulated shall be deemed to be other than on account of the Rent, 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 and Landlord 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.

11.15. Notices. All written notices to be given in connection with this Lease shall be sufficient if personally delivered or sent by facsimile (together with proof of transmission); First-Class Mail or certified or registered mail, postage prepaid; or national overnight delivery service addressed to the party entitled to receive such notice at the address designated in Section 1.02 and Section 1.03 or changed by written notice in accordance with this Section 11.15. Notice shall be effective as follows: (A) when personally delivered to the recipient, notice is effective on delivery; (B) when mailed by certified or registered mail with return receipt requested, notice is effective on the earlier of three (3) days after the date of mailing or receipt if delivery is confirmed by a return receipt; (C) when delivered by overnight delivery with charges prepaid or charged to the sender's account, notice is effective on delivery if delivery is confirmed by the delivery service; (D) when mailed by First-Class Mail through the United States Postal Service, notice is effective three (3) days after the date of mailing; or (E) when sent by fax, notice is effective upon confirmation of receipt; provided, however, that any notice given by fax shall be considered to have been received on the next business day if it is received after 5 p.m. (recipient's time) or on a nonbusiness day. Any correctly addressed notice that is refused, unclaimed or undeliverable because of an act or omission of the party to be notified shall be considered to be effective as of the first (1st) date that the notice was refused, unclaimed or considered undeliverable by the postal authorities, messenger or overnight delivery service. When this Lease requires service of a notice, that notice shall replace rather than supplement any equivalent or similar statutory notice, including any notices required by Code of Civil Procedure section 1161 or any similar or successor statute. When a statute requires service of a notice in a particular manner, service of that notice (or a similar notice required by this Lease) in the manner required by this Section 11.15 shall replace and satisfy the statutory service-of-notice procedures, including those required by Code of Civil Procedure section 1162 or any similar or successor statute.

11.16. Force Majeure. Except as otherwise expressly provided in Section 8.05, if either Landlord or Tenant is delayed, hindered in or prevented from the performance of any act required under this Lease by reason of strikes, lock-outs, labor troubles, inability to procure standard materials, failure of power, restrictive applicable laws, governmental action or inaction (including failure, refusal or delay in issuing permits, approvals and/or authorizations) (that is

not the result of the action or inaction of the party claiming such delay), riots, civil unrest or insurrection, war, terrorism, bioterrorism, fire, earthquake, flood or other natural disaster, unusual and unforeseeable delay that results from an interruption of any public utilities (e.g., electricity, gas, water, telephone) or other unusual and unforeseeable delay not within the reasonable control of the party delayed in performing work or doing acts required under the provisions of this Lease, then performance of such act will be excused for the period of the delay and the period for the performance of any such act will be extended for a period equivalent to the period of such delay. The provisions of this Section 11.16 shall not operate to excuse Tenant from prompt payment of Rent, including, but not limited to, Base Rent or Tenant's Share of Direct Expenses, or either party from any other payments required under the provisions of this Lease.

11.17. Ambiguities. This Lease has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with in this Lease. Accordingly, any rule of law (including Civil Code section 1654) or legal decision that would require interpretation of any ambiguities in this Lease against the party that has drafted it is not applicable and is waived. The provisions of this Lease shall be interpreted in a reasonable manner to effect the purpose of the parties.

11.18. Change in Law. In the event of any legislative or regulatory change (including any change in Medicare or Medicaid policy) or determination, whether federal or state, that has or would have a significant adverse impact on either party hereto, or if legal counsel knowledgeable in health care matters reasonably determines that in the event of an audit or investigation, this Lease is likely to be challenged by any governmental agency as illegal or improper or result in potential sanctions, fines, penalties or exclusion from the Medicare or Medi-Cal programs, or in the case of Landlord, loss of tax-exempt status or its ability to obtain tax-exempt financing, the affected party shall have the right to require that the other party renegotiate the terms of this Lease to either enter into a new lease (to the extent required under applicable laws, including, without limitation, the Stark Law) or an amendment to this Lease that brings this Lease into compliance with the law without materially affecting the contemplated economic benefits and burdens of the original arrangement; provided, however, if Landlord, in the exercise of its reasonable judgment, believes immediate termination of this Lease is required by or to be in compliance with applicable laws or if the relationship reflected herein poses immediate jeopardy to Landlord's tax-exempt status or ability to obtain tax-exempt financing, Landlord may terminate this Lease upon written notice to Tenant. If the parties fail to reach an agreement to amend or enter into a new lease satisfactory to both parties within thirty (30) days of the request for renegotiation, the party requesting such renegotiation may terminate this Lease upon written notice to the other party if such party believes, in the exercise of its reasonable discretion, that continuation of this Lease creates serious potential risk for such party.

11.19. Counterparts. This Lease may be executed in multiple counterparts, each of which shall be deemed an original and all of which together shall be deemed one (1) and the same instrument.

11.20. Third Party Beneficiaries. Unless otherwise expressly provided, this Lease shall not create any third-party beneficiary rights for any person or entity.

11.21. Brokerage Fees. If Tenant has dealt with any person or real estate broker in respect of leasing or renting space in the Building, Tenant shall be solely responsible for the payment of any fee due said person or firm and shall hold Landlord free and harmless against any liability in respect thereto.

11.22. Prior Agreements; Amendments. This Lease contains all of the agreements of the parties hereto with respect to any matter covered or mentioned in this Lease and no prior agreement or understanding pertaining to any such matter shall be effective for any purpose. No provision of this Lease may be amended or added to except by an agreement in writing signed by the parties hereto or their respective successors in interest. Tenant agrees to make such non-monetary modifications to this Lease as may be required by an institutional, insurance company or pension plan lender in connection with obtaining normal financing or refinancing of the Building or real property of which the Premises are a part.

11.23. Independent Covenants. This Lease shall be construed as though the covenants of Tenant are independent and not dependent and Tenant hereby expressly waives the benefit of any statute to the contrary. Tenant expressly acknowledges and agrees that if Landlord fails to perform its obligations set forth herein, Tenant shall not be entitled to make any repairs or perform any acts hereunder at Landlord's expense or to any setoff of the Rent or other amounts owing hereunder against Landlord.

11.24. Execution. By their signatures below, each of the following persons represent that they have authority to execute this Lease and to bind the party on whose behalf their execution is made.

**LANDLORD:**

**SUTTER EAST BAY HOSPITALS, a**  
California nonprofit public benefit corporation

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

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

Its: \_\_\_\_\_

**TENANT:**

**CITY OF BERKELEY, a municipal**  
corporation

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

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

Its: \_\_\_\_\_

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

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

Its: \_\_\_\_\_

## EXHIBIT A

### Confirmation of Lease Terms

This Confirmation of Lease Terms (this "Confirmation") is made on \_\_\_\_\_, \_\_\_\_\_, between **SUTTER EAST BAY HOSPITALS**, a California nonprofit public benefit corporation ("Landlord"), and **CITY OF BERKELEY**, a municipal corporation ("Tenant"), who agree as follows:

1. Landlord and Tenant entered into that certain standard form office lease (NNN) (the "Lease") dated November 4, 2009, in which Landlord leased to Tenant and Tenant leased from Landlord the Premises described in this Confirmation and Sections 1.04 and 2.01 of the Lease.

2. Pursuant to Sections 1.05 and 3.01 of the Lease, Landlord and Tenant agree to confirm the Commencement Date and expiration date of the Term as follows:

A. \_\_\_\_\_, 20\_\_, is the Commencement Date of the Lease;

B. June 30, 2010, is the expiration date of the Lease.

3. Tenant confirms that:

A. It has accepted possession of the Premises as provided in the Lease;

B. The Lease has not been modified, altered or amended, except as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_;

C. The Lease is in full force and effect.

4. The provisions of this Confirmation shall inure to the benefit, or bind, as the case may require, the parties and their respective successors subject to the restrictions on assignment and subleasing contained in the Lease.

[SIGNATURES ON FOLLOWING PAGE]

**LANDLORD:**

**SUTTER EAST BAY HOSPITALS**, a  
California nonprofit public benefit corporation

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

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

Its: \_\_\_\_\_

**TENANT:**

**CITY OF BERKELEY**, a municipal  
corporation

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

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

Its: \_\_\_\_\_

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

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

Its: \_\_\_\_\_

## EXHIBIT B

### Floor Plan Depicting the Premises

