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# LEASE

*BETWEEN*

**TULARE LOCAL HEALTHCARE DISTRICT, as Landlord**

*AND*

**ADVENTIST HEALTH TULARE, as Tenant**

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**LEASE**

This **LEASE** (the "Lease") is made and entered into as of \_\_\_\_\_, 201[8/9], between **TULARE LOCAL HEALTHCARE DISTRICT**, a California health care district (the "District" and, in its capacity as landlord under this Lease, "Landlord"), and **ADVENTIST HEALTH TULARE**, a California nonprofit religious corporation ("Tenant"), a wholly owned subsidiary of Adventist Health System/West, a California nonprofit religious corporation doing business as Adventist Health ("AH").

**WITNESSETH:**

**WHEREAS**, at the Commencement Date, Landlord owns the following real property (collectively, the "Premises"): (a) the land described in **Exhibit A** (the "Land")<sup>1</sup>; (b) all buildings, structures, and other improvements and appurtenances located on the Land or otherwise constituting part of the Premises (the "Improvements"), which Improvements include the Building, comprising [ ● ] [rentable/usable] square feet (as it may increase or decrease from time to time, the "Floor Area"); (c) all right, title, and interest of Landlord, if any, in and to the land lying in the bed of any street or highway in front of or adjoining the Land to the center line of such street or highway; (d) the appurtenances and all the estate and rights of Landlord in and to the Land; (e) any strips or gores adjoining the Land; and (f) all Building Equipment attached or appurtenant to any of the foregoing;

**WHEREAS**, Landlord desires to lease the Premises to Tenant, and Tenant desires to lease the Premises from Landlord; and

**WHEREAS**, the parties desire to enter into this Lease to set forth their rights and obligations to each other relating to the Premises;

**NOW, THEREFORE**, for good and valuable consideration, Landlord leases and demises the Premises to Tenant, and Tenant takes and hires the Premises from Landlord for the Term, upon the terms and conditions of this Lease.

1. **Definitions.** Capitalized terms used but not defined in this Lease shall have the meaning ascribed in the Asset Purchase Agreement (as hereinafter defined).

The following definitions apply in this Lease:

"Additional Rent" means all sums that this Lease requires Tenant to pay Landlord, whether or not expressly called Additional Rent, except Fixed Rent.

"Affiliate" of any specified Person means any other Person Controlling or Controlled by or under common Control with such specified Person. "Affiliated" shall have the correlative meaning.

"AH" has the meaning set forth in the opening paragraph of this Lease.

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<sup>1</sup> This requires a legal description to be created of the "Facility Campus Real Property" (as defined in the LOI).

“Application” means any agreement, application, certificate, document, or submission (or amendment of any of the foregoing): (a) necessary or appropriate for any Construction this Lease allows, including any application for any building permit, certificate of occupancy, utility service or hookup, easement, covenant, condition, restriction, subdivision plat, or such other instrument as Tenant may from time to time reasonably request for such Construction; (b) to allow Tenant to obtain any abatement, deferral, or other benefit otherwise available for Real Estate Taxes; (c) if and to the extent (if any) this Lease permits, to allow Tenant to change the use or zoning of the Premises; (d) to enable Tenant from time to time to seek any Approval or to use and operate the Premises in accordance with this Lease; or (e) otherwise reasonably necessary and appropriate to permit Tenant to realize the benefits of the Premises under this Lease.

“Approvals” means any and all licenses, permits (including building, demolition, alteration, use, and special permits), approvals, consents, certificates (including certificate(s) of occupancy), rulings, variances, authorizations, or amendments to any of the foregoing as shall be necessary or appropriate under any Law for the commencement, performance, or completion of any Construction, or the zoning, rezoning (to the extent this Lease allows), use, occupancy, maintenance, or operation of the Premises.

“Asset Purchase Agreement” has the meaning set forth in Section 3.4.

“Automatic Extension” and “Automatic Extensions” have the meaning set forth in Section 2.2 of this Lease.

“Bankruptcy Law” means Title 11, United States Code, and any other or successor state or federal statute relating to assignment for the benefit of creditors, appointment of a receiver or trustee, bankruptcy, composition, insolvency, moratorium, reorganization, or similar matters.

“Bankruptcy Proceeding” means any proceeding, whether voluntary or involuntary, under any Bankruptcy Law.

“Bankruptcy Sale” means a sale of any property, or any interest in any property, under 11 U.S.C. §363 or otherwise in any Bankruptcy Proceeding affecting the owner of such property.

“Building” means all occupiable Improvements located or to be located on the Premises from time to time.

“Building Equipment” means all fixtures incorporated in the Premises and used, useful, or necessary to operate the Building as such (including boilers; compactors; compressors; conduits; ducts; elevators; escalators; heating, ventilating and air conditioning systems; and pipes) as opposed to operating any particular business in the Building.

“Business Day” means any weekday on which State-chartered banks are open to conduct regular banking business with bank personnel.

“Casualty” means any damage or destruction of any kind or nature, ordinary or extraordinary, foreseen or unforeseen, affecting any or all Improvements, whether or not insured or insurable.

“Casualty Termination” means a termination of this Lease because of a Substantial Casualty, when and as this Lease expressly allows such a termination.

“Chapter 9 Proceeding” means bankruptcy case no. 17-13797 commenced by Landlord on September 30, 2017 as debtor under chapter 9 of the Bankruptcy Law and currently pending in the United States Bankruptcy Court for the Eastern District of California, Fresno Division (the “Bankruptcy Court”).

“Commencement Date” means the Closing Date, as such term is defined under the Asset Purchase Agreement.

“Condemnation” means: (a) any temporary or permanent taking of (or of the right to use or occupy) any Premises by condemnation, eminent domain, or any similar proceeding; or (b) any action by any Government not resulting in an actual transfer of an interest in (or of the right to use or occupy) any Premises but creating a right to compensation, such as a change in grade of any street upon which the Premises abut.

“Condemnation Award” means any award(s) paid or payable (whether or not in a separate award) to either party after the Commencement Date because of or as compensation for any Condemnation, including: (1) any award made for any Improvements that are the subject of the Condemnation; (2) the full amount paid or payable by the condemning authority for the estate that is the subject of the Condemnation, as determined in Condemnation; (3) any interest on such award; and (4) any other sums payable on account of such Condemnation, including for any prepayment premium under any Mortgage.

“Condemnation Effective Date” means, for any Condemnation, the first date when the condemning authority has acquired title to or possession of any Premises subject to the Condemnation.

“Construction” means any alteration, construction, demolition, development, expansion, reconstruction, redevelopment, repair, Restoration, or other work affecting any Improvements, including new construction.

“Construction Threshold” means, during the initial Lease Year, Two Hundred Fifty Thousand Dollars (\$250,000) and, for each subsequent Lease Year, shall mean the product of (x) the Construction Threshold for the immediately preceding Lease Year multiplied by (y) the quotient of (i) the CPI for the month preceding by two months the first month of the then-current Lease Year divided by (ii) the CPI for the month preceding by two months the first month of the immediately preceding Lease Year.

“Contest” shall have the meaning set forth in Section 12.1.

“Contest Conditions” shall have the meaning set forth in Section 12.1.

“Contest Security” shall have the meaning set forth in Section 12.1.1.

“Control” means the possession, directly or indirectly, of either: (a) at least 51% direct or indirect ownership of the Equity Interests of a Person; or (b) the power to direct or cause the direction of the management and policies of such Person, whether by ownership of Equity Interests, by contract, or otherwise.

“County” means the county where the Premises are located.

[“CPI”<sup>2</sup> means the United States Department of Labor, Bureau of Labor Statistics “Consumer Price Index” for All Urban Consumers published for San Francisco-Oakland-San Jose, California, with a base of 1982-1984 = 100. If the CPI ceases to be published, with no successor index, then the parties shall reasonably agree upon a reasonable substitute index.]

[“CPI Adjustment Factor” means, for any Lease Year, the lesser of (a) 1.03 and (b) quotient of (i) the CPI for the month preceding by two months the first month of such Lease Year divided by (ii) the CPI for the month preceding by two months the first month of the immediately preceding Lease Year (solely by way of example and for the avoidance of doubt, if the first month of the second Lease Year were June 2020 then the CPI Adjustment Factor for the second Lease Year would be the lesser of (a) 1.03 and (b) the quotient of the CPI for April 2020 divided by the CPI for April 2019).]

“Default” means Tenant’s uncured default or breach under this Lease. A Default may consist of a Monetary Default or a Nonmonetary Default.

“Default Interest” means interest at an annual rate equal to the lesser of: (a) the Prime Rate plus two percent (2%) per annum; or (b) the Usury Limit.

“District” has the meaning set forth in the opening paragraph of this Lease.

“Electorate Approval” has the meaning set forth in Section 15.9.

“Environmental Law” means any Law about the following at, in, under, above, or upon the Premises: (a) air, environmental, ground water, or soil conditions; or (b) clean-up, control, disposal, generation, storage, release, transportation, or use of, or liability or standards of conduct concerning, Hazardous Substances.

“Equipment Lien” means any security interest, financing lease, personal property lien, conditional sales agreement, chattel mortgage, security agreement, title retention arrangement or any similar arrangement (including any related financing statement) for Tenant’s acquisition or leasing of any Financed FF&E used in the Premises that is leased, purchased under conditional sale or installment sale arrangements, encumbered by a security interest, or used under a license, provided that each Equipment Lien encumbers or otherwise relates only to the Financed FF&E for which such secured party provides bona fide purchase-money financing or a

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<sup>2</sup> CPI provisions may drop out if the FMV valuation determinations include escalations over the term of the Lease, as it may be extended.

bona fide equipment lease, after the Commencement Date. A Leasehold Mortgage is not an Equipment Lien.

“Equity Interest” means all or any part of any direct or indirect equity or ownership interest(s) (whether stock, partnership interest, beneficial interest in a trust, membership interest, or other interest of an ownership or equity nature) in any entity at any tier of ownership that directly or indirectly owns or holds any ownership or equity interest in a Person.

“Estoppel Certificate” means a statement setting forth, as of the date of such statement, (a) the documents comprising this Lease, (b) whether or not any Defaults exist under this Lease, (c) the Fixed Rent and (d) whether any Fixed Rent has been prepaid for more than one (1) month in advance.

“Event of Default” has the meaning set forth in Section 21.1.

“Expiration Date” means the date when this Lease terminates or expires in accordance with its terms or otherwise, whether on the Scheduled Expiration Date, by Landlord’s exercise of remedies for an Event of Default, by Tenant’s exercise of its termination right or otherwise.

“Fee Estate” means Landlord’s fee estate in the Premises, including Landlord’s reversionary interest in the Premises after the Expiration Date.

“Fee Mortgage” means any Mortgage that encumbers all or part of the Fee Estate.

“FF&E” means all movable furniture, furnishings, equipment, and personal property (excluding Building Equipment) that may be removed without material damage to the Premises and without adversely affecting: (a) the structural integrity of the Premises; (b) any electrical, plumbing, mechanical, or other system in the Premises; (c) the present or future operation of any such system; or (d) the present or future provision of any utility service to the Premises. FF&E includes items such as hospital equipment, furniture, movable equipment, telephone, telecommunications and facsimile transmission equipment, point of sale equipment, televisions, radios, network racks, and computer systems and peripherals.

“Financed FF&E” means any FF&E subject to an Equipment Lien in favor of a lessor or lender that: (a) is not an Affiliate of Tenant, and (b) actually provides bona fide financing or a bona fide equipment lease after the Commencement Date for Tenant’s acquisition or use of such FF&E.

“Fixed Rent” has the meaning set forth in Section 3.1.

“Floor Area” has the meaning set forth in the recitals of this Lease.

“Government” means each and every governmental agency, authority, bureau, department, quasi-governmental body, or other entity or instrumentality having or claiming jurisdiction over the Premises (or any activity this Lease allows), including the United States federal government, the State and County governments and their subdivisions and municipalities,

and all other applicable governmental agencies, authorities, and subdivisions thereof. "Government" shall also include any planning commission, board of standards and appeals, department of buildings, city council, zoning board of appeals, or planning board or commission having or claiming jurisdiction over the Premises or any activities on or at the Premises.

"Guaranty" means that certain Guaranty of Agreement for Purchase and Sale of Assets and Lease, dated as of [ ● ], made by AH as guarantor for the benefit of Landlord, guarantying Tenant's obligations under this Lease and the Asset Purchase Agreement.

"Hazardous Substances" includes flammable substances, explosives, radioactive materials, asbestos, asbestos-containing materials, polychlorinated biphenyls, chemicals known to cause cancer or reproductive toxicity, pollutants, contaminants, hazardous wastes, medical wastes, toxic substances or related materials, explosives, petroleum and petroleum products, and any "hazardous" or "toxic" material, substance or waste that is defined by those or similar terms or is regulated as such under any Law, including any material, substance or waste that is: (i) defined as a "hazardous substance" under Section 311 of the Water Pollution Control Act (33 U.S.C. § 1317), as amended; (ii) defined as a "hazardous waste" under Section 1004 of The Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901, et seq., as amended; (iii) defined as a "hazardous substance" or "hazardous waste" under Section 101 of The Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Reauthorization Act of 1986, 42 U.S.C. § 9601 et seq. or any so-called "superfund" or "superlien" law, including the judicial interpretations thereof; (iv) defined as a "pollutant" or "contaminant" under 42 U.S.C.A. § 9601(33); (v) defined as "hazardous waste" under 40 C.F.R. Part 260; (vi) defined as a "hazardous chemical" under 29 C.F.R. Part 1910; or (vii) subject to any other Law regulating, relating to or imposing obligations, liability or standards of conduct concerning protection of human health, plant life, animal life, natural resources, property or the enjoyment of life or property free from the presence in the environment of any solid, liquid, gas, odor or any form of energy from whatever source.

"Hazardous Substances Discharge" means any deposit, discharge, generation, emission, release, or spill of Hazardous Substances that occurs at or from the Premises, or into the Land, or that arises at any time from the use, occupancy, or operation of the Premises or any activities conducted therein or any adjacent or nearby real property, or resulting from seepage, leakage, or other transmission of Hazardous Substances from other real property to the Land, whether or not caused by a party to this Lease and whether occurring before or after the Commencement Date.

"Improvements" has the meaning set forth in the recitals of this Lease.

"Indemnify" means, where this Lease states that any Indemnitor shall "Indemnify" any Indemnitee from, against, or for a particular matter (the "Indemnified Risk"), that the Indemnitor shall indemnify the Indemnitee and defend and hold the Indemnitee harmless from and against any and all loss, cost, claims, liability, penalties, judgments, damages, and other injury, detriment, or expense (including Legal Costs, interest and penalties) that the Indemnitee suffers or incurs: (a) from, as a result of, or on account of the Indemnified Risk; or (b) in enforcing the Indemnitor's indemnity. Indemnitor's counsel shall be subject to Indemnitee's

approval, not to be unreasonably withheld. Any counsel satisfactory to Indemnitor's insurance carrier shall be automatically deemed satisfactory.

“Indemnitee” means any party entitled to be Indemnified under this Lease and its agents, directors, employees, Equity Interest holders, Mortgagees, and officers.

“Indemnitor” means a party that agrees to Indemnify any other Person.

“Initial Term” shall have the meaning set forth in Section 2.1.

“Insubstantial Condemnation” means any Condemnation except a Substantial Condemnation or a Temporary Condemnation.

“Land” has the meaning set forth in the recitals of this Lease.

“Landlord” means the Landlord named in the opening paragraph of this Lease and its permitted successors and assigns (in all cases in compliance with this Lease, including requirements regarding any Trust Funds).

“Laws” means all laws, ordinances, requirements, orders, proclamations, directives, rules, and regulations of any Government affecting the Premises, this Lease, or any Construction in any way, including any use, maintenance, taxation, operation, or occupancy of, or environmental conditions affecting, the Premises, or relating to any Real Estate Taxes, or otherwise relating to this Lease or any party's rights and remedies under this Lease, or any Transfer of any of the foregoing, whether in force at the Commencement Date or passed, enacted, or imposed at some later time, subject in all cases, however, to any applicable waiver, variance, or exemption.

“Lease Year” means: (a) the twelve consecutive calendar month period starting on the Rent Commencement Date; and (b) every subsequent period of twelve consecutive calendar months during the Term.

“Leasehold Estate” means Tenant's leasehold estate, and all of Tenant's rights, privileges, and Preemptive Rights, under this Lease, upon and subject to all the terms and conditions of this Lease, and any direct or indirect interest in such leasehold estate.

“Leasehold Mortgage” means a Mortgage encumbering the Leasehold Estate, or any portion thereof.

“Legal Costs” of any Person means all reasonable costs and expenses such Person incurs in any legal proceeding (or other matter for which such Person is entitled to be reimbursed for its Legal Costs), including reasonable attorneys' fees, court costs, and expenses, and in or as a result of any Bankruptcy Proceeding.

“Liability Insurance” means commercial general liability insurance against claims for personal injury, death, or property damage occurring upon, in, or about the Premises or adjoining streets and passageways.

“Loss” means any Casualty or Condemnation.

“Loss Proceeds” means Condemnation Award(s) and/or Property Insurance Proceeds.

“Market Value” of the Fee Estate or the Leasehold Estate means, as of any date of determination, the present fair market value of such estate (including the fair market value of the rights of the holder of such estate in and to any Improvements) as of such date, considered: (a) as if no Loss had occurred; (b) without adjusting for any expectation of any Loss; (c) as if the Leasehold Estate had not been terminated; (d) taking into account the benefits and burdens of this Lease, the remaining Term, all Permitted Encumbrances, and all other matters affecting such estate and its valuation; and (e) discounting to present value all the obligations and benefits associated with such estate (including, in the case of the Fee Estate, the Rent and Landlord’s reversion). The Market Value shall be determined as if the Term: (1) were to continue until the Scheduled Expiration Date and (2) included, prospectively, all Renewal Terms except any Renewal Term for which Tenant Notifies Landlord that Tenant would not have exercised the Renewal Option in due course. Market Value shall be determined independently of, and without regard to, any valuation established in a Condemnation.

“Memorandum of Lease” means a memorandum of this Lease, in recordable form, setting forth the following provisions of this Lease: (a) all information any Law requires; (b) the Purchase Option; and (c) such other provisions, except the amount or means of determining Rent, as either party reasonably desires.

“Modification” means any abandonment, amendment, cancellation, discharge, extension, modification, rejection, renewal, replacement, restatement, substitution, supplement, surrender, termination, or waiver of a specified agreement or document, or of any of its terms or provisions, or the acceptance of any cancellation, rejection, surrender, or termination of such agreement, document, or terms.

“Modify” means agree to, cause, make, or permit any Modification.

“Monetary Default” means Tenant’s failure to pay any Rent or other money (including Real Estate Taxes and insurance premiums) when and as this Lease requires.

“Mortgage” means any mortgage, deed of trust, security deed, contract for deed, deed to secure debt, or other voluntary real property (including leasehold) security instrument(s) or agreement(s) intended to grant real property (including leasehold) security for any obligation (including a purchase-money or other promissory note) encumbering the Leasehold Estate or the Fee Estate, as entered into, renewed, modified, consolidated, increased, decreased, amended, extended, restated, assigned (wholly or partially), collaterally assigned, or supplemented from time to time, unless and until paid, satisfied, and discharged of record, together with such associated financing statements, fixture filings, security agreements and related documentation as is typically utilized in the State for the purpose of creating and perfecting a contractual security interest in real property. If two or more such mortgages are consolidated or restated as a single lien or held by the same Mortgagee (as applicable), then all such mortgages so consolidated,

restated, or shall constitute a single Mortgage. A participation interest in (or partial assignment of the secured loan) a Mortgage does not itself constitute a Mortgage.

“Mortgagee” means a holder of any Mortgage and its successors and assigns.

“Nonmonetary Default” means Tenant’s material: (a) failure to comply with any affirmative or negative covenant or obligation in this Lease, except a Monetary Default; or (b) breach of any representation or warranty (as of the date made or deemed made).

“Nonrecourse Clause” has the meaning set forth in Section 25.

“Notice” means any consent, demand, designation, election, notice, or request relating to this Lease, including any Notice of Default. Notices shall be delivered, and shall become effective, only in accordance with the “Notices” Article of this Lease.

“Notice of Default” means any Notice claiming or giving Notice of a Default or alleged Default.

“Notify” means give a Notice.

“Person” means any association, corporation, Government, individual, joint venture, joint-stock company, limited liability company, partnership, trust, unincorporated organization, or other entity of any kind. (This does not limit any Transfer restriction.)

“Preemptive Right” means any expansion, extension, purchase, or renewal option; right of first refusal or first offer; or other preemptive right this Lease gives Tenant.

“Premises” has the meaning set forth in the recitals of this Lease.

“Prime Rate” means the prime rate or equivalent “base” or “reference” rate for corporate loans that is from time to time: (a) published in the Wall Street Journal; or (b) if such rate is no longer so published or announced, then a reasonably equivalent rate published by an authoritative third party that Landlord and Tenant jointly designate. Notwithstanding anything to the contrary in this paragraph, the Prime Rate shall never exceed the Usury Limit.

“Prohibited Lien” means any mechanic’s, vendor’s, laborer’s, or material supplier’s statutory lien or other similar lien arising from work, labor, services, equipment, or materials supplied, or claimed to have been supplied, to Tenant or any Subtenant (or anyone claiming through either), which lien attaches (or may attach upon termination of this Lease) to the Fee Estate. An Equipment Lien is not a Prohibited Lien.

“Property Insurance” means insurance providing coverage for the Premises, the Building, and Building Equipment, against loss, damage, or destruction by fire and other hazards (except earthquake or war risk) from time to time during the Term.

“Property Insurance Proceeds” means net proceeds (after reasonable costs of adjustment and collection, including Legal Costs) of Property Insurance, when and as received

by Landlord or Tenant, excluding proceeds of Tenant's business interruption insurance in excess of Rent.

"Purchase Option" shall have the meaning set forth in Section 16.4.

"Real Estate Taxes" means all general and special real estate taxes (including taxes on FF&E, sales taxes, use taxes, and the like), assessments, municipal water and sewer rents, rates and charges, excises, levies, license and permit fees, fines, penalties and other governmental charges and any interest or costs with respect thereto, and charges for public utilities not otherwise payable directly by Tenant (including gas, electricity, light, heat, air conditioning, power and telephone and other communication services), general and special, ordinary and extraordinary, foreseen and unforeseen, of any kind and nature whatsoever that at any time before or during the Term and applicable to the Term or any part of it may be assessed, levied, imposed upon, or become due and payable out of or in respect of, or charged with respect to or become a lien on, the Premises, or any FF&E, Building Equipment or other facility used in the operation thereof, or the rent or income received therefrom, or any use or occupancy thereof. "Real Estate Taxes" shall not, however, include any of the following, all of which Landlord shall pay before delinquent or payable only with a penalty: (a) any franchise, income, excess profits, estate, inheritance, succession, transfer, gift, corporation, business, capital levy, or profits tax, or license fee, of Landlord; (b) any item listed in this paragraph that is levied, assessed, or imposed against the Premises during the Term based on the recapture or reversal of any previous tax abatement or tax subsidy, or compensating for any previous tax deferral or reduced assessment or valuation, or correcting a miscalculation or misdetermination, relating to any period(s) before the Commencement Date; and (c) interest, penalties, and other charges for items "a" and "b." If at any time during the Term the method of taxation prevailing at the Commencement Date shall be altered so that any new tax, assessment, levy (including any municipal, state or federal levy), imposition, or charge, or any part thereof, shall be measured by or be based in whole or in part upon the Premises and imposed upon Landlord, then all such new taxes, assessments, levies, Real Estate Taxes, or charges, or the part thereof to the extent that they are so measured or based, shall be deemed to be included within the term "Real Estate Taxes," to the extent that such Real Estate Taxes would be payable if the Premises were the only property of Landlord subject to such Real Estate Taxes.

"Renewal Option" shall mean each of the options to allow the Term of this Lease to be extended for a Renewal Term, as more particularly described in Section 2.2 of this Lease.

"Renewal Term" and "Renewal Terms" have the meaning set forth in Section 2.2 of this Lease, respectively.

"Rent" means Fixed Rent and Additional Rent.

"Rent Commencement Date" means the first (1<sup>st</sup>) day of the seventh (7<sup>th</sup>) full calendar month following the Commencement Date (except that if the Rent Commencement Date is the first day of a calendar month, then the Rent Commencement Date shall be the first (1<sup>st</sup>) day of the sixth (6<sup>th</sup>) full calendar month following the Commencement Date).

“Restoration” means, after a Loss, the alteration, clearing, rebuilding, reconstruction, repair, replacement, restoration, and safeguarding of the damaged or remaining Improvements, substantially consistent with their condition before the Loss, subject to such Construction as Tenant shall perform in conformity with this Lease, subject to any changes in Law that would limit the foregoing.

“Restoration Funds” means any Loss Proceeds (and deposits by Tenant) to be applied to Restoration.

“Restore” means accomplish a Restoration.

“Scheduled Expiration Date” means 11:59 p.m. on either (x) if the Commencement Date is not the first day of a calendar month, the last day of the sixty-sixth (66<sup>th</sup>) full calendar month following the Commencement Date or (y) if the Commencement Date is the first day of a calendar month, the date preceding the sixty-sixth (66<sup>th</sup>) month “anniversary” of the Commencement Date (in either case, the “Original Scheduled Expiration Date”). To the extent that any Automatic Extension occurs, the Scheduled Expiration Date means 11:59 p.m. on the last day of the applicable Renewal Term.

“Senior,” when referring to multiple Mortgage(s), means the Mortgage that is most senior. Where “Senior” is used as a comparative term as against any specified Mortgage, such term refers to any Mortgage that is senior in lien to such specified Mortgage. If only one Mortgage exists, then it shall be deemed the “Senior” Mortgage of such type.

“State” means the state of California.

“Structure” of the Premises means only the concrete floors, footings, foundation, load-bearing walls, roof, roof support system, and structural steel or other structural support system of the Premises.

“Sublease” means, for the Premises, any: (a) sublease; (b) agreement or arrangement (including a concession, license, management, or occupancy agreement) allowing any Person to occupy, use or possess; (c) sub-sublease or any further level of subletting; or (d) Modification or assignment of “a” through “c.” (Any reference to Subleases does not diminish, impair, limit, or waive any limit on Subleases.)

“Substantial Casualty” means a Casualty that: (a) renders 25% or more of the Premises used for a general acute care hospital facility not capable of being used or occupied; (b) occurs less than five (5) years before the end of the Term and renders 10% or more of the Premises used for a general acute care hospital facility not capable of being used or occupied; (c) requires Restoration whose cost Tenant reasonably estimates in writing would exceed Two Million Dollars (\$2,000,000); or (d) pursuant to Law, prevents the Premises from being Restored to the same bulk, and for the same use(s), as before the Casualty.

“Substantial Condemnation” means any Condemnation that (a) takes the entire Premises; (b) in Tenant’s reasonable determination renders the remaining Premises Uneconomic; or (c) occurs less than three (3) years before the end of the Term.

“Subtenant” means any Person entitled to occupy, use, or possess any Premises under a Sublease.

“Temporary Condemnation” means a Condemnation of the temporary right to use or occupy all or part of the Premises.

“Tenant” has the meaning set forth in the opening paragraph of this Lease.

“Term” means the Initial Term and, if applicable, the Renewal Term(s).

“Tower” shall have the meaning set forth in Section 16.4.

“Transfer” of any property means any of the following, whether by operation of law or otherwise, whether voluntary or involuntary, and whether direct or indirect: (a) any assignment, conveyance, grant, hypothecation, mortgage, pledge, sale, or other transfer, whether direct or indirect, of all or any part of such property, or of any legal, beneficial, or equitable interest or estate in such property or any part of it (including the grant of any easement, lien, or other encumbrance); (b) any conversion, exchange, issuance, modification, reallocation, sale, or other transfer of any direct or indirect Equity Interest(s) in the owner of such property by the holder of such Equity Interest(s); (c) any transaction described in “b” affecting any Equity Interest(s) or any other interest in such property or in any such owner (or in any other direct or indirect owner at any higher tier of ownership) through any manner or means whatsoever; or (d) any transaction that is in substance equivalent to any of the foregoing. A transaction affecting Equity Interests, as referred to in clauses “b” through “d,” shall be deemed a Transfer by Tenant even though Tenant is not technically the transferor. A “Transfer” shall not, however, include any of the foregoing (provided that the other party to this Lease has received Notice thereof) transactions affecting Equity Interests: (a) that constitutes a mere change in form of ownership with no material change in beneficial ownership and is a tax-free transaction under federal income tax law and the State real estate transfer tax; (b) to member(s) of the immediate family(ies) of the transferor(s) or trusts for their benefit; or (c) to any Person that, as of the Commencement Date, holds an Equity Interest in the entity whose Equity Interest is being transferred.

“Trust Funds” means any funds that this Lease requires or allows Landlord (or anyone acting for Landlord) to hold, and in which Tenant has an interest.

“Unavoidable Delay” means delay in performing any obligation under this Lease (except payment of money) arising from or on account of any cause whatsoever beyond the obligor’s reasonable control, despite such obligor’s reasonable diligent efforts, including industry-wide strikes, labor troubles or other union activities (but only to the extent such actions affect similar premises at that time and do not result from an act or omission of the obligor), the obligor’s inability to obtain required labor or materials after commercially reasonable efforts to do so, litigation (unless caused by the obligor), Loss, accidents, Laws, governmental preemption, war, or riots. Unavoidable Delay shall exclude delay caused by the obligor’s financial condition, illiquidity, or insolvency. Any obligor claiming Unavoidable Delay shall Notify the obligee: (a) within 30 days after such obligor knows of any such Unavoidable Delay; and (b) within 10 days after such Unavoidable Delay ceases to exist. To be effective, any such Notice must describe the

Unavoidable Delay in reasonable detail. Where this Lease states that performance of any obligation is subject to Unavoidable Delay(s) or words of similar import, such Unavoidable Delay(s) shall extend the time for such performance only by the number of days by which such Unavoidable Delay(s) actually delayed such performance.

“Uneconomic” means that the Premises or any substantial part of the Premises: (1) is materially diminished in value or utility; (2) cannot be used for its previously intended purpose; (3) is subject to material impairment of access to, parking facilities benefiting, or any material service(s) necessary or appropriate for economic operation; (4) requires Restoration whose cost Tenant reasonably estimates in writing would exceed the then-current aggregate Market Value of the Premises; (5) does not comply with any operating requirements under any hospital license held by Tenant; (6) cannot reasonably be operated as a general acute care hospital, whether in a manner substantially consistent with past practice or on a scale that is smaller but nevertheless profitable (after taking into account the payment of all expenses, including Rent as adjusted after any Condemnation) and reasonably feasible; or (7) cannot be developed or operated in a commercially reasonable manner.

“Usury Limit” means the highest rate of interest, if any, that Law allows under the circumstances.

“Waiver of Subrogation” means a provision in, or endorsement to, any Property Insurance policy, by which the carrier agrees to waive rights of recovery by way of subrogation against either party to this Lease for any loss such policy covers.

## 2. Term.

2.1 *Initial Term.* The initial term of this Lease (the “Initial Term”) shall: (a) commence on the Commencement Date; and (b) continue until the Original Scheduled Expiration Date, unless terminated sooner.

2.2 *Renewal Options.* Unless Tenant shall have given Landlord written Notice, not less than two hundred seventy (270) days prior to the Original Scheduled Expiration Date, of Tenant’s election not to have the term of this Lease extend, at the expiration of the Initial Term the term of this Lease shall automatically extend (the “First Automatic Extension”) for an additional five (5) year period (the “First Renewal Term”) upon all the same terms and conditions (except as this Lease otherwise expressly states). Unless Tenant shall have given Landlord written Notice, not less than two hundred seventy (270) days prior to then Scheduled Expiration Date, of Tenant’s election not to have the term of this Lease extend, (a) at the expiration of the First Renewal Term the term of this Lease shall automatically extend (the “Second Automatic Extension”) for an additional five (5) year period (the “Second Renewal Term”), (b) at the expiration of the Second Renewal Term the term of this Lease shall automatically extend (the “Third Automatic Extension”) for an additional five (5) year period (the “Third Renewal Term”), (c) at the expiration of the Third Renewal Term the term of this Lease shall automatically extend (the “Fourth Automatic Extension”) for an additional five (5) year period (the “Fourth Renewal Term”), and (d) at the expiration of the Fourth Renewal Term the term of this Lease shall automatically extend (the “Fifth Automatic Extension” and, together with the First Automatic Extension, the Second Automatic Extension, the Third Automatic

Extension and the Fourth Automatic Extension, collectively, the “Automatic Extensions” and each, an “Automatic Extension”) for an additional approximately four (4) year and six (6) month period ending on the day immediately preceding the thirtieth (30<sup>th</sup>) anniversary of the Commencement Date (the “Fifth Renewal Term”, and, together with the First Renewal Term, the Second Renewal Term, the Third Renewal Term and the Fourth Renewal Term, collectively, the “Renewal Terms” and each, a “Renewal Term”), in each case upon all the same terms and conditions (except as this Lease otherwise expressly states). After the Fifth Renewal Term, Tenant shall have no further right to renew or extend the Term.

### 3. Rent.

3.1 *Fixed Rent.* Tenant shall pay Landlord during the first Lease Year of the Initial Term, without notice or demand, in lawful money of the United States of America, a net annual rental equal to [ ● ] Thousand Dollars (\$[ ● ]) (the “Fixed Rent”).<sup>3</sup> [For each successive Lease Year during the Initial Term and, if applicable, the Renewal Term, the Fixed Rent shall be equal to the product of (a) the Fixed Rent for the immediately preceding Lease Year multiplied by (b) the CPI Adjustment Factor, provided that in no event will the Fixed Rent ever be an amount less than the initial annual Fixed Rent of [ ● ] Thousand Dollars (\$[ ● ].)]

3.2 *Payment; Proration; Etc.* Tenant shall pay Fixed Rent in equal monthly installments in advance on the first day of each month, beginning on the Rent Commencement Date. Tenant shall pay all Rent payable to Landlord by good and sufficient check payable to Landlord or by wire transfer, at such address as Landlord shall designate from time to time.

3.3 *Additional Rent.* In addition to Fixed Rent, Tenant shall pay Landlord, as additional rent under this Lease, all Additional Rent.

3.4 *Offsets.* Except as expressly provided in this Lease, Tenant shall pay all Rent without offset, defense, claim, counterclaim, reduction, or deduction of any kind whatsoever; provided, however, that Landlord hereby expressly authorizes Tenant, at Tenant’s sole discretion, to the fullest extent allowed by applicable law, at any time and from time to time, to set off against and/or withhold from the Rent payable pursuant to this Lease, any sum or sums necessary to satisfy all or any portion of any outstanding and due or delinquent obligation of Landlord owed to Tenant or an Affiliate of Tenant pursuant to (a) that certain Asset Purchase Agreement dated as of [ ● ], by and between Landlord and Tenant (the “Asset Purchase Agreement”), including, without limitation, under Section 9.11 of the Asset Purchase Agreement; the initial amount(s) to be offset pursuant to this clause (a), as of the Commencement Date, is attached hereto as Schedule 3.4; (b) that certain Debtor-in-Possession Credit Agreement dated as of [ ● ], by and between AH, as lender, and Landlord, as borrower (the “Credit Agreement”), including, without limitation, the loans provided pursuant thereto; the initial amount(s) to be offset pursuant to this clause (b), as of the Commencement Date, is attached hereto as Schedule 3.4; and (c) any other document, instrument or agreement entered into by Landlord in connection with the Asset Purchase Agreement or the Credit Agreement; the initial amount to be offset pursuant to this clause (c), as of the Commencement Date, is attached

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<sup>3</sup> Per the LOI, the fair market rent as determined by the mutually acceptable, third-party valuation consultant.

hereto as Schedule 3.4(c); provided that, (x) beginning with the first month of the second Lease Year of the Term, the amount set off in any calendar month by Tenant against Rent pursuant to this Section 3.4 shall not exceed fifty percent (50%) of the Rent payable under this Lease for such month; (y) Tenant shall utilize its right of set-off pursuant to this Section 3.4 first with respect to any amounts permitted to be set off pursuant to this Section 3.4 other than amounts due and payable under the Credit Agreement before setting off the amounts then due and payable under the Credit Agreement; and (z) to the extent that Tenant intends to set off against Rent, pursuant to this Section 3.4, any amounts not shown on Schedule 3.4 and not arising pursuant to clause (x) of Section 7.1 of this Lease, Tenant shall first give Landlord not less than thirty (30) days' Notice of the amount of such offset and the reason therefor prior to applying such offset pursuant to this Section 3.4.

3.5 *Late Charges.* In the event the Fixed Rent or other sums due under this Lease are received more than five (5) days after the due date, Tenant agrees to pay to Landlord as Additional Rent a late charge equal to 5% of the amount due, not to exceed Five Hundred Dollars (\$500.00) but in no event less than Fifty Dollars (\$50.00). This does not create a grace period. Tenant further agrees to pay Landlord any costs incurred by Landlord in effecting the collection of such past due Rent and late charge including but not limited to fees of an attorney, court costs or collection agency fees. Nothing herein contained shall limit any other remedy of Landlord.

4. *Real Estate Taxes; Other Payments.*

4.1 *Real Estate Taxes.* Tenant shall pay and discharge all Real Estate Taxes payable or accruing for all period(s) within the Term, before failure to pay creates a material risk to Landlord of forfeiture or penalty, subject however to Tenant's right of Contest as this Lease expressly provides. Tenant shall also pay all interest and penalties any Government assesses for late payment of any Real Estate Taxes, except late payment because Landlord failed to remit any payment for Real Estate Taxes (paid to Landlord by Tenant) in accordance with Tenant's reasonable instructions or failed to promptly forward Tenant a copy of any applicable bill that Landlord receives. In the latter case Landlord shall pay such interest and penalties. Tenant shall within a reasonable time after Notice from Landlord give Landlord reasonable proof that Tenant has paid any Real Estate Taxes that this Lease requires Tenant to pay. Tenant shall have the sole right and authority to Contest Real Estate Taxes, in compliance with the Contest Conditions. Notwithstanding the foregoing, (a) Landlord acknowledges and agrees that, as of the Commencement Date, certain Real Estate Taxes are not payable with respect to the Premises due to the tax-exempt status of both Landlord and Tenant; (b) Landlord covenants and agrees that it shall not take any action, or fail to take any action (including, without limitation, the failure to cooperate with Tenant to file for Tenant's organizational clearance certificate with the California Board of Equalization), which shall result in the Premises becoming subject to such Real Estate Taxes; (c) Landlord covenants and agrees that it shall not take any action, or fail to take any action, which shall result in the Premises becoming subject to additional Real Estate Taxes; and (d) in the event that Landlord breaches the covenants in clauses (b) and (c) and Real Estate Taxes are imposed on the Premises as a result thereof, Landlord shall be solely responsible for the payment of such Real Estate Taxes and Tenant shall have no liability or obligation hereunder with respect thereto.

4.2 *Assessments in Installments.* To the extent Law allows, Tenant may apply to have any assessment payable in installments. Tenant shall then pay and discharge only such installments as become due and payable during the Term.

4.3 *Utilities.* Tenant shall arrange and pay for all fuel, gas, light, power, water, sewage, garbage disposal, telephone, and other utility charges, and the expenses of maintenance, use, and service in connection with the foregoing, for the Premises during the Term. Landlord shall have absolutely no liability or responsibility for the foregoing, provided that Landlord performs its obligations regarding any related Application.

4.4 *Triple Net Lease.* The parties intend that this Lease shall be a true triple net lease and that except for such costs or expenses which are expressly set forth herein as the obligation of Landlord, all cost, fees and expenses associated with the Premises and the use or maintenance of the Premises shall be the responsibility of and shall be paid by Tenant.

5. Use.

5.1 *Permitted Use.* Tenant shall use the Premises for the operation of a general acute care hospital (the "Mandated Use"), including outpatient services and rural health clinics, and any other lawful purpose (collectively, the "Medical Business").

5.2 *Exclusive Control.* Tenant shall have exclusive control, possession, occupancy, use, and management of the Premises. Tenant shall have full and complete charge, authority and control of the administration, management and operation of the Medical Business at the Premises. Tenant shall have the right and authority to determine all business, technical and professional policies relating to the operation of the Medical Business, with no restrictions, qualifications or supervision by Landlord. Tenant shall determine the financial policy of the Medical Business and shall have complete power to fix, control and regulate the charges and collections made for services therein. In fixing such charges, Tenant shall apply its best judgment and be controlled by applicable State and federal regulatory statutes and rules.

5.3 *Character of Service.* Tenant is a nonprofit charitable corporation which furthers the mission of the Seventh-day Adventist Church. As such, it operates under certain defined principles and objectives in the operation and management of its health care facilities. Tenant desires to maintain an atmosphere consistent with its beliefs. Landlord understands and agrees that the Medical Business shall be operated in accordance with the characteristics of Seventh-day Adventist medical facilities.

5.4 *Bonds<sup>4</sup>.* Tenant acknowledges that the Premises were improved or constructed in part with funds from Landlord's (i) \$15,000,000 Tulare Local Health Care District (Tulare County, California) General Obligation Bonds, Election of 2005, Series A (2007); (ii) \$8,595,000 Tulare Local Health Care District (Tulare County, California) General Obligation Bonds, Election of 2005, Series B-1 (2009)(Tax-Exempt); (iii) the \$61,405,000 Tulare Local Health Care District (Tulare County, California) General Obligation Bonds, Election of 2005,

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<sup>4</sup> Under review by bond expert.

Series B-2 (2009) (Federally Taxable-Direct Payment Build America Bonds); and (iv) \$17,850,000 Tulare Local Healthcare District (Tulare County, California) Refunding Revenue Bonds, Series 2007 (collectively, the “Bonds”), and that until the Bonds have been repaid in accordance with their terms, the Premises are subject to certain restrictions and covenants set forth in the Bond documents that are intended to ensure preservation of the tax-exempt status of the Bonds, as applicable, pursuant to the Internal Revenue Code of 1986, as amended (the “Code”), and to otherwise satisfy all requirements of the Code related to the [Build America Bonds] pursuant to the Code (the “Bond Covenants”). Tenant agrees that it will not use the Premises or Transfer, assign or sublease the Premises, or take or omit to take any other action, in each case in any manner that breaches the Bond Covenants. Landlord agrees that it will comply with all Bond Covenants, including, without limitation, [the covenants contained in Section [5.05] of each of the Landlord resolutions authorizing the Bonds and in the third paragraph on page 1 of each of the Tax Exemption Certificate and Agreement for the Bonds].

5.5 *Mandated Use.* Tenant’s failure to operate the Premises for the Mandated Use, other than as the result of Loss or other Unavoidable Delay, shall constitute a Default.

6. *Compliance.*

6.1 *Generally.* Tenant shall during the Term, at Tenant’s expense, in all material respects, subject to Tenant’s right of Contest: (a) comply with all Laws and (b) procure and comply with all Approvals required by Law.

6.2 *Copies of Notices.* Landlord shall promptly give Tenant a copy of any notice of any kind regarding the Premises or any Real Estate Taxes (including any bill or statement), and any notice of nonrenewal or threatened nonrenewal of any Approval that Landlord receives from any Government, utility company, insurance carrier, or insurance rating bureau.

7. *Maintenance and Construction.*

7.1 *Obligation to Maintain.* Except to the extent that (a) this Lease otherwise expressly provides or allows or (b) Tenant is performing Construction in compliance with this Lease, Tenant shall during the Term keep and maintain the Premises in good order, condition, and repair, subject to Loss (governed by other provisions of this Lease), reasonable wear and tear, and any other condition that this Lease does not require Tenant to repair. Tenant’s obligation to maintain the Premises includes an obligation to make all repairs that the Premises may require by Law from time to time during the Term, whether foreseen or unforeseen, capital or operating; provided, however, that (x) if the Premises require any capital improvements or capital expenditures to maintain the Premises in good order, condition and repair, as agreed to by both parties, or in compliance with applicable Law (other than as provided in the last sentence of this Section 7.1), Tenant shall effect such capital improvements and/or expenditures and, to the extent that Tenant or AH shall pay the cost of same, offset the cost of such capital improvements and/or expenditures against the Rent payable pursuant to this Lease, and (y) Landlord, and not Tenant, shall pay any and all construction costs for the matters described on Schedule 7.1. Notwithstanding anything to the contrary contained herein, Landlord, and not Tenant, shall be

solely responsible for the compliance of the Premises with any Laws relating to seismic performance standards.

7.2 *Construction.* At Tenant's sole cost and expense, Tenant may perform any Construction not otherwise required under this Lease as Tenant shall consider necessary or appropriate, (x) with Notice to Landlord but without Landlord's consent if the cost of such Construction is equal to or less than the Construction Threshold, and (y) otherwise with Landlord's prior written consent, which consent Landlord shall not unreasonably withhold. To the extent that Tenant commences any Construction, Tenant shall complete it with reasonable diligence and within a reasonable period. Tenant shall pay for all Construction when and as required by the parties that perform such Construction. Tenant shall timely obtain and promptly deliver to Landlord, for Landlord's information, all Approvals necessary or appropriate for any Construction. All Improvements that Tenant constructs on the Land shall become part of the Premises.

7.3 *Plans and Specifications.* To the extent that Tenant obtains plans and specifications or surveys (including working plans and specifications and "as-built" plans and specifications and surveys) for any Construction, Tenant shall promptly upon Landlord's request give Landlord a copy, subject to the terms of any agreement between Tenant and the applicable architect, engineer, or surveyor.

7.4 *Applications and Approvals.* Tenant shall apply to each applicable Government for such Approvals as any Construction undertaken by Tenant shall require. Upon Tenant's request, Landlord shall, without cost to Landlord, promptly join in and execute any Application as Tenant reasonably requests, and otherwise reasonably cooperate with Tenant in obtaining Approvals, provided that such Application is in customary form and imposes no material obligations (beyond obligations ministerial in nature or merely requiring compliance with Law) upon Landlord. Landlord grants to Tenant a power of attorney, coupled with an interest, and therefore irrevocable, to sign on Landlord's behalf any Application that this Lease requires Landlord to sign. Promptly upon Tenant's request and without charge, Landlord shall furnish all information in its possession that Tenant reasonably requests for any Application. Landlord assumes no liability by cooperating with any Construction undertaken by Landlord.

7.5 *Landlord Nonopposition.* Landlord shall not appear in opposition to any Application brought, sought, or defended by Tenant before any Government arising out of any Application consistent with this Lease.

## 8. Mortgages.

8.1 *Execution of Leasehold Mortgages.* Tenant shall have the right, from time to time, without obtaining Landlord's consent but with prior Notice to Landlord and subject to Section 5.4 hereof, to execute one or more Leasehold Mortgages. Any Leasehold Mortgage shall be subordinate to Landlord's Fee Estate.

8.2 *Covenants of Landlord.* If Tenant shall execute a Leasehold Mortgage, Landlord agrees that so long as any Leasehold Mortgage shall remain unsatisfied of record or

until written Notice of satisfaction is given by the holders of any such Leasehold Mortgage to Landlord, the following provisions shall apply:

8.2.1 There shall be no cancellation (except as a result of Tenant's Default, after compliance with the provisions of this Article 8), surrender or Modification of this Lease by joint action of Landlord and Tenant without the prior written consent in writing of each Mortgagee.

8.2.2 Landlord shall, upon serving Tenant with any Notice of Default, simultaneously serve a copy of the Notice upon each Mortgagee of which Landlord has received written Notice.

8.2.3 Each Mortgagee shall have the right, but not the obligation, at any time prior to termination of this Lease, to pay all of the Rent due hereunder, with all due interest and late charges, to effect any insurance, to pay any taxes or assessments, to make any repairs or improvements, to do any other act or thing required of Tenant hereunder, and to do any act or thing which may be necessary and proper to be done in the performance and observance of the agreements, covenants and conditions hereof to prevent termination of this Lease. As against Landlord, any Mortgagee and its agents and contractors shall have full access to the Premises for purposes of accomplishing any of the foregoing, provided that the Mortgagee shall give Landlord not less than ten (10) days prior written Notice of any work to be performed on the Premises by the Mortgagee or its agents and contractors, to allow Landlord to post a notice of nonresponsibility or any similar notice on the Premises. Any of the foregoing done by any Mortgagee shall be as effective to prevent a termination of this Lease as the same would have been if done by Tenant.

8.2.4 Anything contained in this Lease notwithstanding, if any Event of Default shall occur which, pursuant to any provision of this Lease, purportedly entitles Landlord to terminate this Lease, Landlord shall not be entitled to terminate this Lease, and the Notice shall be rendered void, if the Mortgagee shall cure the Default within (i) sixty (60) days after Notice as to any failure of Tenant to perform a monetary obligation when due under this Lease (the parties agreeing, that for purposes of this Lease, a "monetary obligation" shall mean the payment of Rent payable under this Lease, or any other monetary obligation required of Tenant under this Lease whether payable to Landlord or to any third party), or (ii) ninety (90) days after Notice as to any failure of Tenant to perform a non-monetary obligation when due under this Lease (except that if such non-monetary obligation is not reasonably susceptible of performance within ninety (90) days, then such longer time following receipt of Notice as is reasonably necessary to perform such non-monetary obligation, including, without limitation, the time required for the Mortgagee to perfect its right to cure any Non-Monetary Default by obtaining possession of the Premises (including possession by a receiver) or by instituting Foreclosure proceedings, so long as the cure is promptly commenced and the Mortgagee acts with reasonable and continuous diligence through to completion of such cure). The foregoing cure periods shall run from the giving of Notice of Tenant's failure by Landlord to the Mortgagee and may run concurrently (either in whole or in part) with the time provided for Tenant's cure of such failure. As used in this Lease, "Foreclosure" shall mean judicial foreclosure of a Leasehold Mortgage, sale under a power of sale given in a Leasehold Mortgage, and all other remedies provided by law or equity or specified in the Leasehold Mortgage and enforceable in the State at the time of

the foreclosure for divesting the obligor of title in the event of the obligor's default under the Leasehold Mortgage or the obligation it secures.

8.2.5 All rights of Landlord to terminate this Lease as the result of the occurrence of any Event of Default under this Lease, shall be subject to, and conditioned upon, Landlord having first given to each Mortgagee written Notice of the Event of Default as required under Section 8.2.4, and such Mortgagees having failed to remedy such Event of Default or acquire Tenant's Leasehold Estate hereunder or commence Foreclosure or other appropriate proceedings in the nature thereof as set forth in Section 8.2.4.

8.2.6 If any Mortgagee is prohibited from commencing or prosecuting Foreclosure or other appropriate proceedings in the nature thereof by any process or injunction issued by any court or by reason of any action by any court having jurisdiction of any bankruptcy or insolvency proceeding involving Tenant, the times specified in Section 8.2.4 for commencing or prosecuting Foreclosure or other proceedings shall be extended for the period of the prohibition, provided that the Mortgagee shall have fully cured any Event of Default in the payment of any monetary obligations of Tenant under this Lease and shall continue to pay currently those monetary obligations as and when the same fall due.

8.2.7 Landlord agrees that the names of each Mortgagee may be added by Tenant to the "Loss Payable Endorsement" of any and all insurance policies required to be carried by Tenant under this Lease on condition that the insurance proceeds are to be applied in the manner specified in this Lease.

8.3 *New Lease.* Landlord agrees that in the event of termination of this Lease by reason of the rejection hereof by Tenant or a trustee for Tenant in a voluntary or an involuntary case under the Bankruptcy Laws, or in the event of a Foreclosure by a Mortgagee, subject to Section 5.4 hereof, Landlord will enter into a new lease of the Premises with the most Senior Mortgagee requesting a new lease for the remainder of the Lease Term, effective as of the date of such termination, at the rent, and upon the terms, provisions, covenants and agreements as herein contained provided:

8.3.1 The Senior Mortgagee shall make written request upon Landlord for the new lease within sixty (60) days after the date of termination, and the Senior Mortgagee and Landlord will execute such new lease within sixty (60) days thereafter;

8.3.2 The Senior Mortgagee shall pay to Landlord at the time of the execution and delivery of the new lease any and all sums which would, at the time of the execution and delivery thereof, be due and unpaid pursuant to this Lease but for its termination, and in addition thereto any expenses, including, without limitation, reasonable attorneys' fees, to which Landlord shall have been subjected by reason of the Event of Default;

8.3.3 The Senior Mortgagee shall perform and observe all covenants herein contained on Tenant's part to be performed, and shall further remedy any other conditions which Tenant under the terminated Lease was obligated to perform under its terms, to the extent the same are curable or may be performed by the Senior Mortgagee;

8.3.4 The tenant under the new lease shall have the same right, title and interest in and to all Improvements and tenant's improvements located on the Premises as Tenant had under the terminated Lease immediately prior to its termination;

8.3.5 As a condition precedent to Landlord's obligation to execute any new lease pursuant to this Section, the Mortgagee shall reimburse to Landlord all costs reasonably incurred by Landlord in connection with the preparation, review and/or execution of any such new lease, including, without limitation, reasonable attorneys' fees and expenses; and

8.3.6 Nothing herein contained shall require any Mortgagee to enter into a new lease pursuant to this Section, or to cure any Default of Tenant referred to above.

8.4 *Foreclosure Not a Default.* Foreclosure of any Leasehold Mortgage, or any sale thereunder, whether by judicial proceedings or by virtue of any power contained in the Leasehold Mortgage, or any conveyance of the Leasehold Estate hereunder from Tenant to any Mortgagee or its designee through, or in lieu of, Foreclosure or other appropriate proceedings in the nature thereof, shall not require the consent of Landlord or constitute a breach of any provision of or a Default under this Lease provided that it does not result in (x) a breach of Sections 5.4 or 6.1 hereof or (y) a Transfer of this tenant's interest under this Lease to an entity which is, or is an affiliate of, a nonprofit, 501(c)(3) entity that sponsors or operates more than three (3) hospitals in the State of California, and upon such Foreclosure, sale or conveyance Landlord shall recognize the purchaser or other transferee in connection therewith as the Tenant hereunder.

8.5 *Personal Liability.* In the event any Mortgagee or its designee becomes the Tenant under this Lease or under any new lease obtained pursuant to Section 8.3, the Mortgagee or its designee shall be personally liable for the obligations of Tenant under this Lease or a new lease only for the period of time that the Mortgagee or its designee remains the actual beneficial holder of the Leasehold Estate hereunder, and only to the extent provided in this Lease or such new lease.

8.6 *Insurance and Condemnation Proceeds.* Subject to the provisions of this Lease directing the application of such funds, the Senior Mortgagee may reserve the right to apply to its Leasehold Mortgage debt all, or any part, of Tenant's share of the proceeds from any insurance policies or any Condemnation Award arising from a Condemnation pursuant to the provisions of such Leasehold Mortgage.

8.7 *Notice of Proceeding.* The parties hereto shall give all Mortgagees Notice of any arbitration, litigation, or Condemnation proceedings, or of any pending adjustment of insurance claims as each may relate to the Premises, and any Mortgagee shall have the right to intervene therein and to be made a party to such proceedings. The parties hereto do hereby consent to such intervention. In the event that any such Mortgagee shall not elect to intervene or become a party to the proceedings, such Mortgagee shall receive Notice and a copy of any award or decision made in connection therewith, but any such intervention shall not diminish Landlord's rights under this Lease.

8.8 *Fee Mortgage.* Landlord shall not have any right to execute, deliver or record a Fee Mortgage during the Term of this Lease. Landlord represents and warrants that no Fee Mortgage exists as of the Commencement Date.

9. *Prohibited Liens.*

9.1 *Tenant's Covenant.* If a Prohibited Lien is filed then Tenant shall, within 30 days after receiving Notice from Landlord of such filing (but in any case within 15 days after receipt of Notice from Landlord of commencement of foreclosure proceedings), commence appropriate action to cause such Prohibited Lien to be paid, discharged, bonded, or cleared from title. Tenant shall thereafter prosecute such action with reasonable diligence and continuity. If Landlord receives notice of any such filing, then Landlord shall promptly Notify Tenant. Nothing in this Lease shall be construed to: (a) limit Tenant's right of Contest; or (b) obligate Tenant regarding any lien that results from any act or omission by Landlord. If any Subtenant causes a Prohibited Lien, then Tenant's obligations under this paragraph shall be suspended so long as both: (a) Tenant is with reasonable diligence endeavoring to cause the Subtenant to remove the Prohibited Lien; and (b) the holder of the Prohibited Lien has not commenced foreclosure proceedings.

9.2 *Protection of Landlord.* NOTICE IS HEREBY GIVEN THAT LANDLORD SHALL NOT BE LIABLE FOR ANY LABOR OR MATERIALS FURNISHED OR TO BE FURNISHED TO TENANT UPON CREDIT, AND THAT NO MECHANIC'S OR OTHER LIEN FOR ANY SUCH LABOR OR MATERIALS SHALL ATTACH TO OR AFFECT THE FEE ESTATE. NOTHING IN THIS LEASE SHALL BE DEEMED OR CONSTRUED IN ANY WAY TO CONSTITUTE LANDLORD'S CONSENT OR REQUEST, EXPRESS OR IMPLIED, BY INFERENCE OR OTHERWISE, TO ANY CONTRACTOR, SUBCONTRACTOR, LABORER, EQUIPMENT OR MATERIAL SUPPLIER FOR THE PERFORMANCE OF ANY LABOR OR THE FURNISHING OF ANY MATERIALS OR EQUIPMENT FOR ANY CONSTRUCTION, NOR AS GIVING TENANT ANY RIGHT, POWER OR AUTHORITY TO CONTRACT FOR, OR PERMIT THE RENDERING OF, ANY SERVICES, OR THE FURNISHING OF ANY MATERIALS THAT WOULD GIVE RISE TO THE FILING OF ANY LIENS AGAINST THE FEE ESTATE. TENANT SHALL INDEMNIFY LANDLORD AGAINST ANY CONSTRUCTION UNDERTAKEN BY TENANT OR ANYONE CLAIMING THROUGH TENANT, AND AGAINST ALL PROHIBITED LIENS.

10. *Hazardous Substances.*

10.1 *Restrictions.* Tenant shall not cause on, under or at the Premises during the Term: (a) any material violation of any Environmental Law; or (b) the use, generation, release, manufacture, refining, production, processing, storage, or disposal of any Hazardous Substance, or transportation to or from the Premises of any Hazardous Substance, unless in compliance with all applicable Environmental Laws.

10.2 *Compliance; Clean-Up.* Tenant shall, at Tenant's expense: (a) comply with Environmental Law in connection with its operations and, to the extent Environmental Law requires, clean up any Hazardous Substance Discharge on, at, or under the Premises caused or

exacerbated by Tenant or any of Tenant's People; (b) make all submissions to, deliver all information required by, and otherwise fully comply with all requirements of any Government under Environmental Laws in connection with its operations; (c) if any Government requires any clean-up plan or clean-up because of a Hazardous Substances Discharge caused or exacerbated by Tenant or any of Tenant's People, prepare and submit the required plans and all related bonds and other financial assurances; (d) promptly and diligently carry out all such clean-up plans; and (e) Indemnify Landlord against any Hazardous Substances Discharge caused or exacerbated by Tenant or any of Tenant's People or violation of Environmental Law caused by Tenant or any of Tenant's People. Landlord shall, at Landlord's expense: (a) comply with Environmental Law and, to the extent Environmental Law requires, clean up any Hazardous Substance Discharge on, at, or under the Premises caused or exacerbated by Landlord or any of Landlord's People or predating the Commencement Date; (b) make all submissions to, deliver all information required by, and otherwise fully comply with all requirements of any Government under Environmental Laws; (c) if any Government requires any clean-up plan or clean-up because of a Hazardous Substances Discharge caused or exacerbated by Landlord or any of Landlord's People or predating the Commencement Date, prepare and submit the required plans and all related bonds and other financial assurances; (d) promptly and diligently carry out all such clean-up plans; and (e) Indemnify Tenant against any Hazardous Substances Discharge caused or exacerbated by Landlord or any of Landlord's People or predating the Commencement Date or violation of Environmental Law caused by Landlord or any of Landlord's People or predating the Commencement Date, in either case, whether known or unknown. Any party's obligations under this paragraph shall not limit such party's rights against third parties. With respect to either party hereto, its "People" means its agents, employees, contractors, officers, directors, consultants and representatives.

11. *Indemnification; Liability of Landlord.*

11.1 *Obligations.* Landlord and Tenant shall each Indemnify the other against any: (a) wrongful act, wrongful omission, or negligence of the Indemnitor (and anyone claiming by or through the Indemnitor) or its or their partners, members, directors, officers, or employees; (b) breach or default by the Indemnitor under this Lease; or (c) breach of any representation or warranty made by Indemnitor in this Lease. In addition, Tenant shall Indemnify Landlord against the following during the Term: (w) any Contest Tenant initiates; (x) any Application made at Tenant's request; (y) any Construction undertaken by Tenant and any agreements that Tenant (or anyone claiming through Tenant) makes for any such Construction; and (z) any accident, injury or damage whatsoever caused to any person in or on the Premises or upon or under the sidewalks adjoining the Premises. Notwithstanding anything to the contrary in this Lease, no Indemnitor shall be required to Indemnify any Indemnitee regarding the Indemnitee's intentional acts or omissions or negligence. This paragraph does not apply to Environmental Law and Hazardous Substances Discharges, which are covered elsewhere.

11.2 *Liability of Landlord.* During the Term: (a) Tenant is and shall be in exclusive control and possession of the Premises; and (b) Landlord shall not be liable for any injury or damage to any property (of Tenant or any other Person) or to any person occurring on or about the Premises, unless caused by Landlord's intentional act, omission, or Landlord's negligence. Nothing in this Lease shall be construed to exculpate, relieve, or Indemnify Landlord from or against any liability of Landlord: (y) to third parties existing at or before the

Commencement Date; or (z) arising from Landlord's intentional acts or omissions or Landlord's negligence.

11.3 *Indemnification Procedures.* Wherever this Lease requires any Indemnitor to Indemnify any Indemnitee:

11.3.1 *Prompt Notice.* Indemnitee shall promptly Notify Indemnitor of any claim. If Indemnitee fails to give prompt Notice, then to the extent, and only to the extent, such failure materially prejudices Indemnitor, Indemnitor shall be relieved of its indemnity obligations for such claim.

11.3.2 *Selection of Counsel.* Indemnitor shall select counsel reasonably acceptable to Indemnitee. Counsel to Indemnitor's insurance carrier shall be deemed satisfactory. Even though Indemnitor shall defend the action, Indemnitee may, at its option and its own expense, engage separate counsel to advise it regarding the claim and its defense. Such counsel may attend all proceedings and meetings. Indemnitor's counsel shall actively consult with Indemnitee's counsel. Indemnitor and its counsel shall, however, fully control the defense.

11.3.3 *Cooperation.* Indemnitee shall reasonably cooperate with Indemnitor's defense, provided Indemnitor reimburses Indemnitee's actual reasonable out of pocket expenses (including Legal Costs) in providing such cooperation.

11.3.4 *Settlement.* Indemnitor may, with Indemnitee's consent, not to be unreasonably withheld, settle the claim. Indemnitee's consent shall not be required for any settlement by which: (w) Indemnitor procures (by payment, settlement, or otherwise) a release of Indemnitee by which Indemnitee need not make any payment to the claimant; (x) neither Indemnitee nor Indemnitor on behalf of Indemnitee admits liability; (y) the continued effectiveness of this Lease is not jeopardized in any way; and (z) Indemnitee's interest in the Premises is not jeopardized in any way.

11.3.5 *Insurance Proceeds.* Indemnitor's obligations shall be reduced by net insurance proceeds Indemnitee actually receives for the matter giving rise to indemnification.

12. *Right of Contest.*

12.1 *Tenant's Right; Contest Conditions.* Notwithstanding anything to the contrary in this Lease, Tenant shall have the exclusive right to contest, at its sole cost, by appropriate legal proceedings diligently conducted in good faith, the amount or validity of any Real Estate Taxes or Prohibited Lien; the valuation, assessment, or reassessment (whether proposed, phased, or final) of the Premises for Real Estate Taxes; the amount of any Real Estate Tax; the validity of any Law or its application to the Premises; the terms or conditions of, or requirements for, any Approval; or the validity or merit of any claim against which this Lease requires Tenant to Indemnify Landlord (any of the foregoing, a "Contest"). Tenant may defer payment or performance of the contested obligation pending outcome of the Contest, provided that Tenant causes the following conditions (collectively, the "Contest Conditions") to remain satisfied:

12.1.1 *No Criminal Act.* Such deferral or noncompliance shall not constitute a criminal act by Landlord or subject Landlord to a material risk of any fine or penalty, or, if such material risks exists, Tenant has given Landlord a bond, letter of credit, or other security reasonably satisfactory to Landlord (the “Contest Security”) in an amount equal to the reasonably estimated amount of such civil penalties.

12.1.2 *No Liability.* Such deferral or noncompliance creates no material risk of a lien, charge, or other liability of any kind against the Fee Estate, or, if such material risk exists, Tenant has given Landlord Contest Security equal to the reasonably estimated amount of such lien, charge, or other liability.

12.1.3 *No Forfeiture.* Such deferral or noncompliance will not place the Fee Estate in material danger of being forfeited or lost.

12.1.4 *No Cost to Landlord.* Such Contest shall be without cost, liability, or expense to Landlord.

12.1.5 *Diligence.* Tenant shall prosecute such Contest with reasonable diligence and in good faith.

12.1.6 *Payment.* If required for such Contest, Tenant shall have paid the Contested Real Estate Taxes or other matter.

12.1.7 *Collection of Real Estate Taxes.* If such Contest relates to any Real Estate Tax, then such Contest shall suspend its collection from Landlord and the Fee Estate.

12.1.8 *No Tax Deed.* If, at any time, payment of any Real Estate Taxes is necessary to prevent the imminent (i.e., within 30 days) delivery of a tax deed of the Fee Estate for nonpayment, then Tenant shall pay or cause to be paid the sums in sufficient time to prevent delivery of such deed.

12.1.9 *Named Parties.* If Landlord has been named as a party in any action, then Tenant shall cause Landlord to be removed as such party and Tenant substituted in Landlord’s place, if permissible under the circumstances.

12.2 *Landlord Obligations and Protections.* Landlord need not join in any Contest unless (a) Tenant has complied with the Contest Conditions; and (b) such Contest must be initiated or prosecuted in Landlord’s name. In such case, Landlord shall cooperate, as Tenant reasonably requests, to permit the Contest to be prosecuted in Landlord’s name. Landlord shall give Tenant any documents, deliveries, and information in Landlord’s control and reasonably necessary for Tenant to prosecute its Contest. Landlord shall otherwise assist Tenant in such Contest as Tenant reasonably requires. Tenant shall pay all reasonable costs and expenses, including Legal Costs, of any Contest.

12.3 *Miscellaneous.* Tenant shall be entitled to any refund of any Real Estate Taxes (and penalties and interest paid by Tenant), to the extent attributable to periods within the Term, whether such refund is made during or after the Term. When Tenant concludes Tenant’s Contest of any Real Estate Taxes, Tenant shall pay the amount of such Real Estate Taxes (if any)

as has been finally determined in such Contest to be due, to the extent attributable to periods within the Term, and any costs, interest, penalties, or other liabilities in connection with such Real Estate Taxes. Upon final determination of Tenant's Contest of a Law, Tenant shall comply with such final determination. So long as the Contest Conditions remain satisfied, Landlord shall enter no objection to any Contest.

12.4 *Contest Security.* Landlord shall promptly release any Contest Security to Tenant after the Contest has been resolved and Tenant has performed its obligations, if any, as determined by such resolution. Landlord shall hold any Contest Security in an interest-bearing account separate from any other account held by Landlord.

### 13. Insurance.

#### 13.1 *Insurance Program.*

13.1.1 *Professional Liability Insurance; General Liability Insurance; Property Insurance.* Tenant shall, at its sole expense, during the Term, maintain hospital professional and general liability protection for the Premises during the Term through either (a) the AHS/West HPL/GL self-funded Trust Program which provides liability protection for all AHS/West participant health care facilities, or (b) alternative commercial insurance coverage with liability limits of not less than One Million Dollars (\$1,000,000) per occurrence and Five Million Dollars (\$5,000,000) aggregate. To the extent that the hospital medical staff bylaws require physicians exercising clinical privileges to maintain their own liability insurance policies, Tenant will enforce said requirement. In addition, Tenant or, at Tenant's election with not less than thirty (30) days' prior written Notice to Landlord and at Tenant's sole cost and expense, Landlord shall maintain Property Insurance on the Premises and buildings and Improvements within the Premises. The limits for such Property Insurance shall be for the full replacement value of the property so insured. Such insurance shall provide protection on a comprehensive special form "all risk" basis.

13.2 *Nature of Insurance Program.* All insurance policies this Lease requires, if issued by a commercial insurer (as opposed to protection through the AHS/West self-funded HPL/GL Trust Program), shall be issued by carriers that: (a) have a policyholders' rating of "A-/VIII" or better, based on the latest rating publication of Property and Casualty Insurers by A.M. Best Company (or its equivalent if such publication ceases to be published); and (b) are lawfully doing business in the State.

13.3 *Policy Requirements and Endorsements.* All insurance policies this Lease requires (except any insurance policies required under Section 13.6 to which the following provisions may be inapplicable) shall contain (by endorsement or otherwise) the following provisions:

13.3.1 *Insureds.* Liability coverage shall name Landlord and all Mortgagees this Lease allows and of which Tenant has received written Notice from Landlord as an "additional insured" or as an "additional participant" as respects Tenant's acts, errors and omissions. Notwithstanding anything to the contrary in this paragraph, all Property Insurance Proceeds shall be paid and applied as this Lease provides.

13.3.2 *Primary Coverage.* All policies or programs of self-insurance shall be written as primary coverage as respects Tenant's acts, errors and omissions, not contributing to or in excess of any coverage that Landlord may carry.

13.3.3 *Notice to Landlord.* The insurance carrier or the AHS/West self-funded HPL/GL Trust Program shall provide Landlord 30 days' prior Notice of cancellation or nonrenewal.

13.4 *Tenant's Inability to Obtain Insurance.* So long as (a) any insurance (except Property Insurance) this Lease requires is, after diligent effort by Tenant, unobtainable at commercially reasonable rates through no act or omission by Tenant; and (b) Tenant obtains the insurance coverage reasonably obtainable and Notifies Landlord of the extent of Tenant's inability to obtain the full insurance this Lease requires, Tenant's obligation to procure and maintain such insurance as is unobtainable shall be excused, but only so long as conditions "a" and "b" are satisfied. Notwithstanding the foregoing, if Landlord at any time can procure for Tenant such insurance at commercially reasonable rates at any time after Tenant's Notice of inability to do so (and before Tenant has withdrawn such Notice), then Tenant shall obtain and maintain such insurance at Tenant's expense.

13.5 *Waiver of Certain Claims.* To the extent that Landlord or Tenant purchases any policy of Property Insurance, the party purchasing such insurance (the "Insurance Purchaser") shall cause the insurance carrier to agree to a Waiver of Subrogation, if not already in the policy. If any insurance policy cannot be obtained with a Waiver of Subrogation, or a Waiver of Subrogation is obtainable only by paying an additional premium, then the Insurance Purchaser shall so Notify the other party. The other party shall then have 10 Business Days after receipt of such Notice either to (a) direct the Insurance Purchaser to place such insurance with a company reasonably satisfactory to the other party and willing to issue the insurance with a Waiver of Subrogation at no greater or additional cost, or (b) agree to pay the additional premium if such a policy can be obtained only at additional cost. To the extent that the parties actually obtain insurance with a Waiver of Subrogation, the parties release each other, and their respective authorized representatives, from any claims for damage to any person or the Premises that are caused by or result from risks insured against under such insurance policies.

13.6 *Landlord Insurance.* Landlord shall, at its sole expense, maintain comprehensive general liability coverage for its own protection, and other insurance policies or programs of self-insurance it deems appropriate to cover the liability of Landlord. In addition, if Landlord's medical/hospital professional liability insurance is written on a claims made basis, Landlord agrees to purchase an unlimited extended reporting period endorsement or "tail" coverage. Landlord agrees to provide Tenant with evidence of such coverage.

13.7 *No Representation.* Neither party makes any representation that the limits, scope, or forms of insurance coverage this Lease requires are adequate or sufficient.

14. Losses and Loss Proceeds.

14.1 *Prompt Notice.* If either party becomes aware of any Casualty or actual, contemplated, or threatened Condemnation, then such party shall promptly so Notify the other party.

14.2 *Casualty.* If any Casualty occurs that is not a Substantial Casualty, then Tenant shall, except as otherwise provided in this paragraph, Restore with reasonable promptness. If the Casualty is a Substantial Casualty, then Tenant may, by Notice to Landlord given within six (6) months after the Casualty elect a Casualty Termination effective thirty (30) days after such Notice. Upon any Casualty Termination, Tenant shall assign and transfer to Landlord all of Tenant's rights to Property Insurance Proceeds Tenant received, or is entitled to receive, because of the Casualty. If, however, pursuant to Law, the Premises cannot be Restored to the same bulk, and for the same use(s), as before the Casualty, then upon any resulting Casualty Termination, Tenant shall be entitled to receive and retain (as a first priority claim to the Property Insurance Proceeds) a portion of the Property Insurance Proceeds equal to the Market Value of the Leasehold Estate. Unless Tenant has validly elected a Casualty Termination: (a) this Lease shall not terminate; and (b) Tenant shall be solely responsible for negotiating and adjusting any Property Insurance Proceeds (or, if Landlord is the insuring party, then Landlord shall allow Tenant to participate in the negotiation and adjustment of any Property Insurance Proceeds).

14.3 *Substantial Condemnation.* If a Substantial Condemnation occurs during the Term, then as of the Condemnation Effective Date the Expiration Date shall occur and the parties shall apportion Rent. Landlord shall not settle or compromise any Condemnation Award without consent by Tenant. Landlord and Tenant shall allocate the Condemnation Award as follows and in the following order of priority, without duplication, until exhausted:

14.3.1 *Costs and Expenses.* To reimburse Landlord and Tenant for their respective actual costs and expenses, including Legal Costs, incurred in the Substantial Condemnation and determining and collecting the Condemnation Award.

14.3.2 *Landlord's Claim.* Landlord shall receive such portion of the Condemnation Award as shall equal the Market Value of the Fee Estate at the Condemnation Effective Date.

14.3.3 *Tenant's Claim.* Tenant shall receive such portion of the Condemnation Award as shall equal the Market Value of the Leasehold Estate, if any, at the Condemnation Effective Date.

14.3.4 *Residual Claim.* Landlord shall receive the entire remaining Condemnation Award.

14.4 *Insubstantial Condemnation.* If an Insubstantial Condemnation occurs during the Term then any Condemnation Award(s) shall be paid to Tenant and applied first toward Restoration, in the same manner as Restoration after Casualty, provided that if the Condemnation Award is inadequate to complete the Restoration, Tenant shall contribute the deficiency and Tenant shall Restore in compliance with this Lease. After Tenant has completed and fully paid for Restoration, any remaining Condemnation Award shall be distributed to

Landlord and Tenant as if it arose from a Substantial Condemnation that affected only the part of the Premises taken, with an equitable allocation of all elements taken into account in determining such distribution. After the Condemnation Effective Date, all Fixed Rent shall decrease by a fraction whose numerator is the amount of the Condemnation Award paid to Landlord and whose denominator is the Market Value of the Fee Estate immediately before the Condemnation Effective Date.

14.5 *Near End of Term.* If an Insubstantial Condemnation occurs during the last three (3) years of the Term, then Tenant, upon thirty (30) days' prior Notice to Landlord, given at any time within ninety (90) days after such Insubstantial Condemnation, may cancel or terminate this Lease. Upon such termination, the Rent shall be apportioned as of the date of termination, and Tenant need not Restore. In that event, the balance of the Condemnation Award, less any reasonable amounts expended by Tenant to the date of termination to safeguard, clear, or make emergency repairs to the Premises (the costs of which shall be reimbursed to Tenant from the Condemnation Award), shall belong to Landlord free of any claim by Tenant.

14.6 *Temporary Condemnation.* If a Temporary Condemnation occurs during the Term and relates to a period longer than 90 days, then Tenant may terminate this Lease effective as of the Condemnation Effective Date. In that event, and to the extent that the period of such Temporary Condemnation otherwise includes any period outside the Term, the Condemnation Award from such Temporary Condemnation shall belong to Landlord. If the Temporary Condemnation relates to a period of 90 days or less, or if Tenant does not terminate this Lease because of the Temporary Condemnation, then Tenant shall receive the Condemnation Award (to the extent attributable to periods within the Term) and this Lease shall not be affected in any way. Landlord shall have no right to participate in any Temporary Condemnation proceedings unless either (a) Tenant elects to terminate this Lease because of the Temporary Condemnation; or (b) Tenant may not legally participate in such proceedings. In the latter case, Landlord shall participate in such proceedings in accordance with Tenant's instructions, all at Tenant's reasonable expense and using counsel selected, instructed, and paid by Tenant.

14.7 *Use of Loss Proceeds.* Landlord assigns to Tenant the right to receive all Loss Proceeds if the event giving rise to such Loss Proceeds has not resulted in the termination of this Lease. If Landlord receives any Loss Proceeds under such circumstances, Landlord shall promptly remit them to Tenant. Until Tenant has completed and paid for Restoration, Tenant shall hold all Loss Proceeds to be used first to Restore and for no other purpose. When Tenant has completed and paid for Restoration, Tenant may retain any remaining Loss Proceeds. Notwithstanding anything in this Lease to the contrary, if Restoration Funds are insufficient to Restore, then Tenant may terminate this Lease on thirty (30) days' Notice to Landlord and shall deliver all of the Loss Proceeds received by Tenant (or the right to receive same if not yet received by Tenant) to Landlord.

14.8 *Continuation of Lease.* Except as this Lease expressly provides, this Lease shall not terminate, be forfeited, or be affected in any other manner, and Tenant waives any right to quit or surrender the Premises or any part of the Premises, because of any Loss or any resulting untenability. Unless and until this Lease has been validly terminated, Tenant's obligations under this Lease, including the obligation to pay Rent, shall continue unabated, subject to the Nonrecourse Clause.

15. Representations and Warranties.

Landlord represents and warrants to Tenant that the following facts and conditions exist and are true as of the Commencement Date:

15.1 *Due Authorization and Execution.* Landlord has full right, title, authority, and capacity to execute and perform this Lease, the Memorandum of Lease and any other agreements and documents to which Landlord is a party and referred to or required by this Lease, subject to the Electorate Approval (collectively, the “Lease-Related Documents”); the execution and delivery of the Lease-Related Documents have been duly authorized by all requisite actions of Landlord; the Lease-Related Documents constitute valid, binding, and enforceable obligations of Landlord; and neither the execution of the Lease-Related Documents nor the consummation of the transactions they contemplate violates any agreement (including Landlord’s governing documents), contract, or other restriction to which Landlord is a party or is bound. Tenant makes to Landlord representations and warranties reciprocal to those in the preceding sentence. Both parties’ representations and warranties in this paragraph shall continue to apply in full force and effect throughout the Term as if made continuously during the Term.

15.2 *No Litigation.* Landlord has not been served with any summons, complaint or written notice to arbitrate, and there is no existing or, to Landlord’s knowledge, pending or threatened litigation, suit, action, investigation or proceeding before any court or administrative agency affecting Landlord, any constituent entity or individual of Landlord, or the Premises that would, if adversely determined, materially adversely affect Landlord, the Premises, this Lease, or the Leasehold Estate, except as set forth in Schedule 15.2.

15.3 *No Pending Condemnation.* There is no existing or, to Landlord’s knowledge, pending or threatened Condemnation affecting any portion of the Premises or any pending public improvements in, about, outside or appurtenant to the Premises that will materially adversely affect the use and operation of the Premises for the Medical Business, the value of the Premises, or access to the Premises or that will create additional cost to any owner or Tenant of the Premises by means of special assessments or otherwise.

15.4 *Equipment Liens.* To Landlord’s knowledge, the Premises are free and clear of any rights or claims of a type that, if Tenant entered into or granted them after the Commencement Date, would constitute Equipment Liens.

15.5 *FIRPTA.* Landlord is not a “foreign person” within the meaning of Section 1445(f)(3) of the United States Internal Revenue Code of 1986.

15.6 *No Pending Construction or Liens.* With the exception of the Construction contemplated by Schedule 7.1, Landlord is not a party to any contract for any Construction. With the exception of matters arising under the Construction contemplated by Schedule 7.1, to Landlord’s knowledge, no Person has the right to claim any mechanic’s or supplier’s lien arising from any labor or materials furnished to the Premises before the Commencement Date.

15.7 *No Other Tenants.* Subject to the leases set forth on Schedule 15.7 (but only to the extent that any such lease has not expired or been terminated and that any such lease

(including the right to all security deposits and other amounts and instruments deposited thereunder) has been assigned to Tenant by Landlord; such leases the “Converted Subleases”) and to Tenant’s rights pursuant to Section 18.1, Tenant is the only lessee of the Premises, and no other Person has any right to lease, use, or occupy the Premises at any time. Landlord has provided Tenant with a true and complete copy of each of the Converted Subleases (including all amendments, modifications and supplements thereto and guaranties thereof). Except as set forth on Schedule 15.7, (i) none of the Converted Subleases have been modified, amended, or assigned, (ii) each of the Converted Subleases is legally valid, binding and enforceable in accordance with its terms and is in full force and effect, and (iii) to Landlord’s knowledge, there are no material defaults (or matters that upon written notice or lapse of time would constitute material defaults) by Landlord under, or by any other party to, any of the Converted Subleases.

15.8 *Chapter 9 Proceeding.* Landlord has received, and has provided to Tenant a copy of, a certified order of the Bankruptcy Court authorizing Landlord to enter into the Asset Purchase Agreement, the Interim Management Services Agreement, the Financing Documents and this Lease.

15.9 *Electorate Approval.* To Landlord’s knowledge, Landlord has taken such actions as are necessary to submit to the voters of Landlord’s district a measure proposing the transfer and lease of assets, including the Purchase Option, as contemplated under this Lease and the Asset Purchase Agreement, in accordance with Section 32121(p)(1) of the California Health and Safety Code and applicable provisions of the California Elections Code (the “Electorate Approval”).

15.10 *Premises Status.* The Premises are subject only to the Permitted Real Property Encumbrances listed on Schedule 15.10; and except as disclosed on Schedule 15.10 and other than the Converted Subleases, there are no purchase contracts, options, rights of first refusal, rights of first offer or first negotiation, restrictive covenants or other agreements of any kind, oral or written, formal or informal, choate or inchoate, recorded or unrecorded, whereby any person or entity will have acquired or will have any basis to assert any right, title or interest in the Premises. No officers, directors or employees of Seller, or relative of any of such officer, director or employee, has any direct or indirect interest in any of the Premises.

15.11 *Zoning.* To Landlord’s knowledge, the Premises are zoned to permit the uses for which the Premises is presently used and/or intended to be used, without variances or conditional use permits.

15.12 *Easements and Encroachments.* To Landlord’s knowledge, Landlord has all easements and rights of way, including without limitation, easements for all utilities, services, roadways and other means of ingress and egress, necessary for access to the Premises. Except as disclosed in the Express Map and/or the Title Report, none of the Improvements encroach onto adjacent property, violate set-back, building, or sideline requirements, or encroach onto any easements located on the Premises.

16. *Landlord’s Transfers.*

16.1 *Landlord's Right to Convey.* Landlord may Transfer the Fee Estate from time to time, but only if (a) such transaction and the resulting ownership of Landlord do not otherwise violate this Lease; and (b) Landlord promptly Notifies Tenant of such Transfer and Tenant grants its written consent thereto prior, and as a condition, to the effectiveness of such Transfer. If any transaction violates the preceding sentence, then: (w) it shall be null, void, and of no force or effect; (x) notwithstanding the foregoing, Tenant shall be entitled to equitable relief to cancel and rescind it; (y) Tenant may terminate this Lease; and (z) Tenant may exercise any other available right or remedy.

16.2 *Release of Landlord.* Upon any Transfer of the entire Fee Estate in compliance with this Lease, the grantor shall be automatically freed and relieved from all liability (excluding liability previously accrued) for performance of any covenants or obligations to be performed by Landlord after the Transfer, provided that: (i) Landlord delivers and turns over to the grantee all Trust Funds; and (ii) such successor Landlord acknowledges to Tenant receipt of such Trust Funds and assumes Landlord's future obligations under this Lease, subject to the Nonrecourse Clause. This Lease shall bind Landlord only while Landlord owns the Fee Estate, except as to any liabilities and obligations accrued before the date of Transfer of the Fee Estate or arising from failure to turn over any Trust Funds.

16.3 *Tenant's Right of First Refusal.* If Landlord desires to Transfer the Fee Estate at any time prior to (x) the Scheduled Expiration Date or sooner termination of this Lease or (y) to the extent permissible under applicable Laws to grant a ROFR for this period, the date that is the first (1<sup>st</sup>) anniversary of the Scheduled Expiration Date or sooner termination of this Lease, then Landlord shall first offer (the "Landlord's Offer") to Transfer the Fee Estate to Tenant (or a purchaser Tenant procures) ("Tenant's ROFR") before offering it to any other Person, all as follows:

16.3.1 *Landlord's Offer.* Landlord's Offer shall be in writing and shall set forth the terms on which Landlord proposes to Transfer the Fee Estate. Such terms shall: (a) require either payment in cash at closing or deferred payments secured, if at all, only by a standard printed form Fee Mortgage; (b) not involve any other property; (c) not require either purchaser or seller to perform or bear any material post-closing obligations or deliver any guaranties, except that Landlord shall indemnify Tenant for any and all liabilities, whether known or unknown, connected with any violation of Environmental Law or any Hazardous Substance Discharge caused by the Landlord or beginning or occurring prior to the Commencement Date; (d) allow the purchaser to assign its contract; and (e) require conveyance of title subject only to (i) nonmonetary encumbrances recorded against the Fee Estate prior to the Commencement Date and (ii) encumbrances created by, or resulting from the acts or omissions of, or with the express written consent of, Tenant ("Permitted Exceptions"). The Transfer shall otherwise be on the terms of a standard printed form contract of sale used in the State for improved real property and selected by Tenant, modified as necessary in Tenant's reasonable judgment to reflect the terms of Landlord's Offer, with a closing 60 to 180 days (as designated by Tenant on 60 days' Notice to Landlord) after the date Tenant has accepted Landlord's Offer. Time shall not be of the essence for the closing date.

16.3.2 *Sale to Third Party.* If Tenant Notifies Landlord that Tenant does not desire to purchase the Fee Estate on the terms of Landlord's Offer, or fails to accept

Landlord's Offer within sixty (60) days after receipt, then Landlord may Transfer the Fee Estate to any other Person, except as set forth below, provided that such Transfer closes within one hundred eighty (180) days after the date that Tenant notifies Landlord that it does not desire to purchase the Fee Estate (or the date of expiration of the sixty (60) days if no such notice is given) and complies with the limitations that apply to "Landlord's Offer" in the previous paragraph. If, however, Landlord desires to Transfer the Fee Estate for a price less than ninety-five percent (95%) of the price in Landlord's Offer, or on terms that in any other way are materially more favorable to the purchaser than those in Landlord's Offer, then Landlord shall again deliver to Tenant a Landlord's Offer. The procedure described above shall again apply, but Tenant's response period shall be thirty (30) days.

16.3.3 *Transferees.* Any purchaser (or direct or indirect subsequent purchaser) of the Fee Estate or any interest in the Fee Estate shall be bound, as to subsequent Transfers, by Tenant's ROFR, whether or not the instrument(s) of Transfer to such purchaser so state.

16.4 *Tenant's Purchase Option.* Tenant shall have the option (the "Purchase Option"), at any time during the Term following the earlier of (x) Landlord's completion of construction of the Tower (as more particularly described on Schedule 7.1, the "Tower") and (y) Landlord's fulfillment of its obligations under California Law to ensure that the Improvements, including the Tower, are fully compliant with any Laws relating to seismic performance standards ("Seismic Compliance"), to purchase the Fee Estate from Landlord at a purchase price equal to the Market Value for the Fee Estate (the "Purchase Option Price"), provided that the Purchase Option Price exceeds the indebtedness then outstanding under the Bonds, on the following terms and conditions:

16.4.1 *Further Electorate Approval.* At the request of Tenant, Landlord shall have taken such actions as are necessary to submit to the voters of Landlord's district a measure proposing the sale of the Fee Estate to Tenant, as contemplated under this Lease, in accordance with Section 32121(p)(1) of the California Health and Safety Code and applicable provisions of the California Elections Code, and the voters shall have approved such sale.

16.4.2 *Tenant's Notice.* Tenant may exercise its Purchase Option by giving Landlord written Notice of Tenant's intent to purchase the Fee Estate and the desired closing date for the purchase (the "Closing Date"), which shall not be more than sixty (60) days after the date of the Notice (the "Option Exercise Notice"). The Option Exercise Notice shall be accompanied by (a) an MAI appraisal from the Valuation Consultant showing the Market Value for the Fee Estate, and (b) three (3) counterparts of an escrow agreement, in customary form (the "Escrow Agreement"), naming a nationally recognized title company as escrow agent ("Escrow Agent") and Landlord and Tenant as the other parties, all executed by Escrow Agent and Tenant.

16.4.3 *Opening of Escrow.* Landlord shall sign the three (3) counterparts of the Escrow Agreement and return one (1) fully executed counterpart to each of Tenant and the Escrow Agent within five (5) Business Days of Landlord's receipt of the Option Exercise Notice. Escrow Agent's receipt of a fully executed counterpart of the Escrow Agreement shall effect the opening of escrow for Tenant's purchase of the Fee Estate.

#### 16.4.4 *Closing Conditions.*

(a) At closing and as a condition to Tenant's obligation to close, Landlord shall pay and so covenants to pay, on the Closing Date all State and local transfer taxes payable by reason of the sale of the Fee Estate from Landlord to Tenant. Landlord, as seller, and Tenant, as purchaser, shall execute and deliver all questionnaires, returns, reports and other documents required to be executed and filed in connection with such taxes in a timely fashion so that all clearances required to be obtained shall have been obtained by the Closing Date.

(b) At closing and as a condition to Tenant's obligation to close, title to the Fee Estate shall be conveyed, and Landlord covenants so to convey, free and clear of all exceptions to title other than Permitted Encumbrances and any municipal, state or federal rules or regulations which may then affect the Land or the Improvements or such transfer and conveyance.

(c) At closing, and as a condition to Tenant's obligation to purchase the Fee Estate, Landlord will deliver to Tenant an affidavit that it is not a "foreign person" within the meaning of Section 1445 of the Internal Revenue Code of 1986, as amended, or will otherwise comply with the provisions of such Section.

16.4.5 *Closing Procedures.* On the Closing Date, the Fee Estate shall be conveyed in its "as is" condition and there shall be no abatement or diminution of the Purchase Option Price by reason of any fire, casualty, eminent domain or Condemnation affecting the Land or the Improvements. The Purchase Option Price shall be paid by Tenant on the Closing Date by payment to the Escrow Agent of an amount equal to the Purchase Option Price by wire transfer of federal funds to Escrow Agent's account. On or before the Closing Date, Landlord shall deliver to Escrow Agent the deed to the Fee Estate, which deed shall be the usual grant deed in proper form for recording and shall be duly executed and acknowledged so as to convey to Tenant title to the Fee Estate in fee simple in accordance with this Section 16.4 (the "Deed") as well as any other documents or instruments reasonably requested by Escrow Agent to confirm the proper Transfer of the Fee Estate from Landlord to Tenant in accordance with the terms and provisions of this Section 16.4 (the "Ancillary Documents"). Upon Escrow Agent's receipt of the Deed and the Ancillary Documents from Landlord and the Purchase Option Price from Tenant, the closing shall be deemed to have occurred and Escrow Agent shall be authorized to record the Deed in the applicable land records and to release the Purchase Option Price (as adjusted for the payment of any State and local transfer taxes or other closing amounts payable by Landlord) to Landlord. In the event that Landlord fails timely to deliver the Deed and the Ancillary Documents to Escrow Agent, Tenant shall have the right to pursue all rights and remedies afforded at law and in equity, including specific performance. In the event that Tenant fails timely to deliver the Purchase Option Price to Escrow Agent and provided that all conditions to Tenant's performance were previously satisfied, Landlord shall have no further obligation to sell the Fee Estate to Tenant under this Section 16.4 and the Purchase Option shall be of no further force or effect.

16.4.6 *No Other Agreement.* In the event that the Option Exercise Notice shall have been given, the provisions of this Section 16.4 shall constitute the entire agreement of sale with respect to the sale by Landlord to Tenant of the Fee Estate and no further agreement of

sale shall be required of Landlord or Tenant with respect to the Fee Estate, other than closing documents reasonably required by Landlord or Tenant or Escrow Agent hereunder and for the normal and usual closing adjustments.

16.4.7 *Merger*. Upon the closing of the purchase of the Fee Estate, the Term shall expire and neither the Landlord nor Tenant shall have any further rights or obligations under this Lease, except for those rights and/or obligations which are expressly provided in this Lease to survive said closing.

17. *Tenant's Transfers.*

17.1 *Tenant's Right*. Subject to compliance with Sections 5.4 and 6.1, Tenant may Transfer this Lease or the Leasehold Estate to an Affiliate of Tenant without Landlord's consent (but with prior written Notice) and otherwise with Landlord's prior written consent, not to be unreasonably withheld, delayed or conditioned. Any assignee of Tenant shall assume all obligations and liabilities of Tenant under this Lease. Tenant shall pay all transfer and other taxes payable on account of any Transfer by Tenant. Tenant shall promptly Notify Landlord of any Transfer. After Tenant assigns this Lease and the assignee assumes it, the assignor shall have no obligation or liability under this Lease, except any unperformed obligations that arose before the assignment (unless assumed in writing, in recordable form, by the assignee). If Tenant assigns this Lease, then as between Landlord and Tenant, Tenant shall be deemed to have assigned to the assignee or transferee all claims against Landlord then existing, and the assignee shall be deemed, by assuming this Lease, to have assumed all liabilities and obligations of Tenant then existing or thereafter arising under this Lease (except as this Lease otherwise expressly states).

18. *Subleases.*

18.1 *Tenant's Right*. Subject to Sections 5.4 and 6.1, Tenant may enter into or Modify any Sublease, terminate any Sublease or evict any Subtenant, and grant any consent under any Sublease, all without Landlord's consent. No Sublease shall affect any obligations of Tenant or rights of Landlord under this Lease, all of which shall continue in full force and effect notwithstanding any Sublease. Any Sublease shall expire no later than one hour before the Expiration Date. The fact that any Subtenant causes any Default shall not relieve Tenant of Tenant's obligation to cure it. Tenant shall take all steps reasonable and necessary to prevent any such Default.

19. *Equipment Liens.*

19.1 *Tenant's Rights*. After the Commencement Date, Tenant intends, from time to time, to acquire or lease FF&E. If at any time or from time to time Tenant desires to enter into or grant any Equipment Lien that otherwise complies with this Lease, then upon Tenant's request Landlord shall enter into such customary documentation regarding the Financed FF&E as Tenant reasonably requests, providing for matters such as: (a) waiver of any right to take possession of such Financed FF&E upon an Event of Default; (b) waiver of any other right, title, or interest in the Financed FF&E; and (c) agreements to enable the holder of such Equipment Lien to repossess such Financed FF&E if such holder exercises remedies under its Equipment Lien. Tenant shall not enter into any Equipment Lien that causes any Prohibited Lien.

20. Quiet Enjoyment; Title to Certain Premises; Certain Agreements.

20.1 *Quiet Enjoyment.* So long as this Lease has not been terminated, Landlord covenants that Tenant shall and may peaceably and quietly have, hold, and enjoy the Premises for the Term, subject to the terms of this Lease, without molestation, hindrance, or disturbance by or from Landlord or by anyone claiming by or through Landlord or having title to the Premises paramount to Landlord, and free of any encumbrance created or suffered by Landlord, except Permitted Encumbrances.

20.2 *Access and Inspection.* Notwithstanding anything to the contrary in this Lease, Landlord and its agents, representatives, and designees shall have the right to enter the Premises upon reasonable Notice during regular business hours, solely to: (a) ascertain whether Tenant is complying with this Lease; (b) cure Tenant's Defaults; (c) inspect the Premises and any Construction; (d) perform such tests, borings, and other analyses as Landlord determines may be necessary or appropriate relating to (non)compliance with any Law or possible Hazardous Substances Discharge; (e) show the Premises to a prospective transferee; or (f) to fulfill any legal obligation Landlord may retain, as a healthcare district, with respect to the Premises under the California Health & Safety Code. In entering the Premises, Landlord and its designees shall not unreasonably interfere with operations on the Premises and shall comply with Tenant's reasonable instructions and all applicable Laws. Landlord shall Indemnify Tenant against any claims arising from Landlord's entry upon the Premises.

21. Events of Default; Remedies.

21.1 *Definition of "Event of Default."* An "Event of Default" means the occurrence of any one or more of the following:

21.1.1 *Monetary Default.* If a Monetary Default occurs and continues for 10 Business Days after Notice from Landlord, specifying in reasonable detail the amount of money not paid and the nature and calculation of each such payment.

21.1.2 *Prohibited Liens.* If Tenant fails to comply with any obligation regarding Prohibited Liens and does not remedy such failure within 15 days after Notice from Landlord.

21.1.3 *Bankruptcy or Insolvency.* If Tenant ceases to do business as a going concern, ceases to pay its debts as they become due or admits in writing that it is unable to pay its debts as they become due, or becomes subject to any Bankruptcy Proceeding (except an involuntary Bankruptcy Proceeding dismissed within 180 days after commencement), or a custodian or trustee is appointed to take possession of, or an attachment, execution or other judicial seizure is made with respect to, substantially all of Tenant's assets or Tenant's interest in this Lease (unless such appointment, attachment, execution or other seizure was involuntary and is contested with diligence and continuity and is vacated and discharged within 180 days).

21.1.4 *Nonmonetary Default.* If any other Nonmonetary Default occurs and Tenant does not cure it within 45 days after Notice from Landlord describing it in reasonable detail, or, in the case of a Nonmonetary Default that cannot with due diligence be cured within 45 days from such Notice, if Tenant shall not (x) within 45 days from Landlord's Notice advise

Landlord of Tenant's intention to take all reasonable steps to cure such Nonmonetary Default; (y) duly commence such cure within such period, and then diligently prosecute such cure to completion; and (z) complete such cure within a reasonable time under the circumstances (not necessarily limited to 45 days).

21.2 *Remedies.* If an Event of Default occurs and so long as such Event of Default is continuing without cure or waiver, then Landlord shall, at Landlord's option, have any or all of the following remedies, all cumulative (so exercise of one remedy shall not preclude exercise of another remedy), in addition to such other remedies as may be available at law or in equity or under any other terms of this Lease. Landlord's remedies include:

21.2.1 *No Waiver.* No failure by Landlord to insist upon strict performance of any covenant, agreement, term, or condition of this Lease or to exercise any right or remedy upon a Default, and no acceptance of full or partial Rent during continuance of any such Default, shall waive any such Default or such covenant, agreement, term, or condition. No covenant, agreement, term, or condition of this Lease to be performed or complied with by Tenant, and no Default, shall be Modified except by a written instrument executed by Landlord. No waiver of any Default shall affect or alter this Lease. Each and every covenant, agreement, term and condition of this Lease shall continue in full force and effect with respect to any other then existing or subsequent Default of such covenant, agreement, term or condition of this Lease.

21.2.2 *Continuation of Lease.* Landlord may continue this Lease in full force and effect and the Lease will continue in effect as long as Landlord does not terminate Tenant's right to possession, and Landlord shall have the right to collect Rent when due. During the period Tenant is in Default, Landlord can enter the Premises and relet them, or any part of them, to third parties for Tenant's account. Tenant shall be liable immediately to Landlord for all costs Landlord incurs in reletting the Premises, including, without limitation, brokers' commissions, expenses of remodeling the Premises required by the reletting, and like costs. Reletting can be for a period shorter or longer than the remaining term of this Lease. Tenant shall pay to Landlord the Rent due under this Lease on the dates the Rent is due, less the rent Landlord receives from any reletting. No act by Landlord allowed by this paragraph shall terminate this Lease unless Landlord Notifies Tenant that Landlord elects to terminate this Lease.

If Landlord elects to relet the Premises as provided in this paragraph, rent that Landlord receives from reletting shall be applied to the payment of:

First, any indebtedness from Tenant to Landlord other than Fixed Rent due from Tenant;

Second, all costs, including for maintenance, incurred by Landlord in reletting;

Third, Fixed Rent due and unpaid under this Lease. After deducting the payments referred to in this paragraph, any sum remaining from the rent Landlord receives from reletting shall be held by Landlord and applied in payment of future Rent as Rent becomes due under this Lease. In no event shall Tenant be entitled to any excess rent received by Landlord. If, on the date Rent is due under this Lease, the rent received from the reletting is less than the Rent due on that date, Tenant shall pay to Landlord, in addition to the remaining Rent due, all costs, including for maintenance,

Landlord incurred in reletting that remain after applying the rent received from the reletting as provided in this paragraph.

21.2.3 *Termination of Lease.* Landlord can terminate Tenant's right to possession of the Premises. No act by Landlord other than giving Notice to Tenant shall terminate this Lease. Acts of maintenance, efforts to relet the Premises, or the appointment of a receiver on Landlord's initiative to protect Landlord's interest under this Lease shall not constitute a termination of Tenant's right to possession. On termination, Landlord has the right to recover from Tenant:

a. The worth, at the time of the award, of the unpaid Rent that had been earned at the time of termination of this Lease;

b. The worth, at the time of the award, of the amount by which the unpaid Rent that would have been earned after the date of termination of this Lease until the time of award exceeds the amount of the loss of Rent that Tenant proves could have been reasonably avoided;

c. The worth, at the time of the award, of the amount by which the unpaid Rent for the balance of the term after the time of award exceeds the amount of the loss of Rent that Tenant proves could have been reasonably avoided; and

d. Any other amount, and court costs, necessary to compensate Landlord for all detriment proximately caused by Tenant's Default.

"The worth, at the time of the award," as used in "a" and "b" of this paragraph, is to be computed by allowing interest at the maximum rate an individual is permitted by law to charge on a loan. "The worth, at the time of the award," as referred to in "c" of this paragraph, is to be computed by discounting the amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of the award, plus 1%.

21.3 *Landlord's Right to Cure.* If Tenant at any time fails to make any payment or take any action this Lease requires and such failure has ripened into an Event of Default, then Landlord, after ten (10) Business Days' Notice to Tenant, or in an emergency with such Notice (if any) as is reasonably practicable under the circumstances, and without waiving or releasing Tenant from any obligation or Default and without waiving Landlord's right to take such action as this Lease may permit as a result of such Default, may (but need not) make such payment or take such action. Tenant shall reimburse Landlord, as Additional Rent, for an amount equal to (a) all reasonable sums paid, and reasonable costs and expenses (including Legal Costs) incurred, by Landlord in exercising its cure rights under this paragraph; and (b) Default Interest on "a."

21.4 *Holding Over.* If for any reason or no reason Tenant remains in the Premises after the Expiration Date without the consent of Landlord, then Landlord will suffer injury that is substantial, difficult, or impossible to measure accurately. Therefore, if Tenant remains in the Premises after the Expiration Date without the consent of Landlord, for any reason or no reason, then in addition to any other rights or remedies of Landlord, Tenant shall pay to Landlord, as liquidated damages and not as a penalty, for each month (prorated daily for partial months) during which Tenant holds over after the Expiration Date, a sum equal to: 120% (for the

first month or partial month of holding over), 133% (for the second month or partial month of holding over), and 150% (for each subsequent month or partial month of holding over) times the monthly Rent, including Additional Rent, payable under this Lease during the year preceding the Expiration Date.

21.5 *Waivers.* TENANT WAIVES ANY RIGHT OF REDEMPTION PROVIDED FOR BY LAW. TENANT WAIVES ANY RIGHT TO INTERPOSE ANY COUNTERCLAIM IN ANY ACTION BY LANDLORD TO ENFORCE THIS LEASE OR LANDLORD'S RIGHTS AND REMEDIES UNDER THIS LEASE.

21.6 *Accord and Satisfaction; Partial Payments.* No payment by Tenant or receipt by Landlord of a lesser amount than the amount owed under this Lease shall be deemed to be other than a part payment on account by Tenant. Any endorsement or statement on any check or letter accompanying any check or payment of Rent shall not be deemed an accord or satisfaction. Landlord may accept any such check or payment without prejudice to Landlord's right to recover the balance of such Rent or pursue any other remedy.

21.7 *Landlord's Default.* Landlord shall not be considered to be in default under this Lease unless Tenant has given Notice specifying the default and Landlord has failed for 60 days from receipt of Notice to cure the default, if it is curable within that time period, or to institute and diligently pursue reasonable corrective or ameliorative acts for defaults not so curable within such 60 day period and complete such cure within a reasonable time under the circumstances.

21.8 *Tenant's Termination Right.* Tenant shall have the right, at Tenant's sole election, to terminate this Lease upon two hundred seventy (270) days' Notice to Landlord if Landlord fails (a) to complete the construction of the Tower within ten (10) years of the Commencement Date and/or (b) to achieve Seismic Compliance for the Improvements (including the Tower) on or before January 1, 2030.

22. *End of Term.*

Upon any Expiration Date: (a) Tenant shall deliver to Landlord possession of the Premises, in the condition this Lease requires, subject to any Loss that this Lease does not require Tenant to Restore; (b) Tenant shall surrender any right, title, or interest in and to the Premises and deliver such evidence and confirmation thereof as Landlord reasonably requires; (c) Tenant shall deliver the Premises free and clear of all liens except (1) Permitted Encumbrances and (2) liens that Landlord or any of its agents caused; (d) the parties shall adjust for Real Estate Taxes and all other expenses and income of the Premises and any prepaid Rent and shall make such payments as shall be appropriate on account of such adjustment in the same manner as for a sale of the Premises (but any sums otherwise payable to Tenant shall first be applied to cure any Default); (e) the parties shall terminate the Memorandum of Lease; and (f) Tenant shall assign to Landlord, and Landlord shall reimburse Tenant for, all utility and other service provider deposits for the Premises. Additionally, if Landlord Notifies Tenant in writing not less than one hundred eighty (180) days prior to such Expiration Date of Landlord's election to resume operation of the Premises, either directly or through the engagement of a third-party operator, then (x) upon such Expiration Date, Tenant shall assign to Landlord, without recourse,

and give Landlord copies or originals of, all assignable licenses, permits, contracts, warranties, and guarantees then in effect for the Premises; (y) the parties shall cooperate to achieve an orderly transition on such Expiration Date of operations from Tenant to Landlord or other operator without interruption, including delivery of such books and records (or copies thereof) as Landlord reasonably requires (including, to the extent permitted by applicable Laws, records pertaining to the operation of the Hospital prior to the Expiration Date); and (z) on such Expiration Date, Tenant shall sell to Landlord, and Landlord shall purchase from Tenant, at the then-current fair market value (as determined by the Valuation Consultant pursuant to a fair market value appraisal process initiated following Landlord's delivery of its Notice of election to resume operation) and pursuant to a mutually agreed asset purchase agreement that includes commercially reasonable terms, all then-existing FF&E and inventory used in the operation of the Premises and, to the extent requested by Landlord, any Building Equipment that Tenant acquired after the Commencement Date.

23. Notices.

All Notices shall be in writing and shall be addressed to Landlord and/or Tenant (and their designated copy recipients), as applicable, as set forth in **Exhibit B**. Notices (including any required copies as set forth in **Exhibit B**) shall be delivered by Federal Express or other overnight (one-night) courier service, or by personal delivery, to the addresses set forth in **Exhibit B**, in which case they shall be deemed delivered on the date of delivery (or when delivery has been attempted twice, as evidenced by the written report of the courier service) to such address(es). Either party may change its address by giving Notice in compliance with this Lease. Notice of such a change shall be effective only upon receipt. Any party giving a Notice may request the recipient to acknowledge receipt of such Notice. The recipient shall promptly comply with any such request, but failure to do so shall not limit the effectiveness of any Notice. Any attorney may give any Notice on behalf of its client. No Notice shall be effective unless and until a copy of such Notice has been delivered to the intended recipient's Mortgagee(s) of which the sender shall have received Notice.

24. No Broker.

Each party: (a) represents and warrants that it did not engage or deal with any broker or finder in connection with this Lease and no Person is entitled to any commission or finder's fee on account of any agreements or arrangements made by such party; and (b) shall Indemnify the other party against any breach of such representation.

25. Nonrecourse.

Notwithstanding anything to the contrary in this Lease (but excluding the liability expressly undertaken by AH under the Guaranty), the liability under this Lease of Landlord and Tenant and each of its respective parent(s), subsidiary(ies), or Affiliated corporations or other entities, and any of their constituent partners, joint venturers, or tenants-in-common, for damages or otherwise, shall be enforceable against, and shall not extend beyond, their interests in the Premises (including the proceeds thereof). No property or assets whatsoever, except Landlord's and Tenant's respective interest in the Premises (including the proceeds thereof), shall be subject to levy, execution or any other enforcement procedure for the satisfaction of any remedies

(monetary or otherwise) of the other party arising under or in connection with this Lease. No shareholder, officer, member, manager, director, agent, or employee of Landlord or Tenant (other than AH to the extent expressly undertaken under the Guaranty) shall have any liability under this Lease. (This Lease sometimes refers to this paragraph as the “Nonrecourse Clause.”)

26. Additional Deliveries; Third Parties.

26.1 *Estoppel Certificates.* Up to twice a year, each party to this Lease (a “Requesting Party”) may require the other party (a “Certifying Party”) to execute, acknowledge, and deliver to the Requesting Party (or directly to a designated third party) up to four original counterparts of an Estoppel Certificate. The Certifying Party shall sign, acknowledge, and return such Estoppel Certificate within fifteen (15) days after request, even if the Requesting Party is in Default. Any Estoppel Certificate shall bind the Certifying Party.

26.2 *Further Assurances.* Each party shall execute and deliver such further documents, and perform such further acts, as may be reasonably necessary to achieve the parties’ intent in entering into this Lease. Upon request from Tenant, Landlord shall promptly, under documentation reasonably satisfactory to the requesting party: (a) acknowledge any Subtenant’s nondisturbance and recognition rights (provided such Subtenant joins in such agreement); and (b) certify (subject to any then exception reasonably specified) that this Lease is in full force and effect, that no Lease impairment has occurred, that to Landlord’s knowledge no Default exists, the date through which Rent has been paid, and other similar matters as reasonably requested. Upon the request of either party hereto following completion of the addition to or Restoration of the Building that results in an increase or decrease in its occupiable area, the parties shall execute an amendment to this Lease memorializing the then-current Floor Area of the Building.

26.3 *Chapter 9 Proceeding.* Landlord and Tenant hereby understand, acknowledge and agree that the plan of adjustment in connection with the Chapter 9 Proceeding shall not amend, modify or contradict any provision of this Lease, the Interim Management Services Agreement, the Financing Documents or the Asset Purchase Agreement.

26.4 *Modification.* Any Modification of this Lease must be in writing signed by the party to be bound.

26.5 *Successors and Assigns.* This Lease shall bind and benefit Landlord and Tenant and their successors and assigns, but this shall not limit or supersede any Transfer restrictions. Nothing in this Lease confers on any Person (except Landlord and Tenant) any right to insist upon, or to enforce against Landlord or Tenant, the performance or observance by either party of its obligations under this Lease.

26.6 *Memorandum of Lease.* Concurrently with the execution of this Lease, the parties shall promptly execute, acknowledge, and deliver duplicate originals of a Memorandum of Lease. Either party may record such Memorandum of Lease. Any taxes imposed upon such recording shall be paid by the party that caused such recordation to occur. If the parties amend this Lease, then the parties shall have the same rights and obligations regarding a memorandum of such amendment as they do for the Memorandum of Lease. Tenant may at any time by Notice to Landlord elect to require the Memorandum of Lease to be terminated, in which case: (a) the

parties shall terminate the Memorandum of Lease; and (b) the parties acknowledge that Tenant shall rely on notice by possession rather than constructive notice by recordation of the Memorandum of Lease.

27. Miscellaneous.

27.1 *Costs and Expenses; Legal Costs.* In the event of any litigation or dispute between the parties, or claim made by either party against the other, arising from this Lease or the landlord-tenant relationship under this Lease, or Landlord's enforcement of this Lease upon a Default, or to enforce or interpret this Lease or seek declaratory or injunctive relief in connection with this Lease, or to exercise any right or remedy under or arising from this Lease, or to regain or attempt to regain possession of the Premises or terminate this Lease, or in any subsequent Bankruptcy Proceeding affecting the other party to this Lease, the prevailing party shall be entitled to reimbursement of its Legal Costs with Default Interest and all other reasonable costs and expenses incurred in enforcing this Lease or curing the other party's default.

27.2 *No Consequential Damages.* Whenever either party may seek or claim damages against the other party (whether by reason of a breach of this Lease by such party, in enforcement of any indemnity obligation, for misrepresentation or breach of warranty, or otherwise), neither Landlord nor Tenant shall seek, nor shall there be awarded or granted by any court, arbitrator, or other adjudicator, any speculative, consequential, collateral, special, punitive, or indirect damages, whether such breach shall be willful, knowing, intentional, deliberate, or otherwise. The parties intend that any damages awarded to either party shall be limited to actual, direct damages sustained by the aggrieved party. Neither party shall be liable for any loss of profits suffered or claimed to have been suffered by the other.

27.3 *No Merger.* If the Leasehold Estate and the Fee Estate are ever commonly held, they shall remain separate and distinct estates (and not merge).

27.4 *No Waiver by Silence.* Failure of either party to complain of any act or omission on the part of the other party shall not be deemed a waiver by the noncomplaining party of any of its rights under this Lease. No waiver by either party at any time, express or implied, of any breach of this Lease shall waive such breach or any other breach.

27.5 *Performance Under Protest.* If a dispute arises regarding performance of any obligation under this Lease, the party against which such obligation is asserted shall have the right to perform it under protest, which shall not be regarded as voluntary performance. A party that has performed under protest may institute appropriate proceedings to recover any amount paid or the reasonable cost of otherwise complying with any such obligation, with interest at the Prime Rate.

27.6 *Survival.* All rights and obligations that by their nature are to be performed after any termination of this Lease shall survive any such termination.

27.7 *Unavoidable Delay.* Each party's obligation to perform or observe any nonmonetary obligation under this Lease shall be suspended during such time as such performance or observance is prevented or delayed by Unavoidable Delay.

27.8 *Restrictive Covenant.* Until the earlier of (a) the expiration or earlier termination of this Lease and (b) the date on which the District shall no longer own any of the Premises, absent approval from Tenant, the District shall not own or otherwise participate in the provision of any service of a hospital or health care provider that competes with services of Tenant in the Service Area, including the provision of hospital services, professional medical/clinic services, home health services or any other professional medical services that are substantially similar to services provided by the Tenant or its Affiliates in the Service Area. “Service Area” shall mean the service area described in the exhibit attached hereto as **Exhibit C**.

28. *Interpretation, Execution, and Application of Lease.*

28.1 *Captions.* The captions of this Lease are for convenience and reference only. They in no way affect this Lease.

28.2 *Counterparts.* This Lease may be executed in counterparts.

28.3 *Delivery of Drafts.* Neither party shall be bound by this Lease unless and until such party shall have executed and delivered at least one counterpart of this Lease. The submission of draft(s) or comment(s) on drafts shall bind neither party in any way. Such draft(s) and comment(s) shall not be considered in interpreting this Lease.

28.4 *Entire Agreement.* This Lease contains all terms, covenants, and conditions about the Premises. The parties have no other understandings or agreements, oral or written, about the Premises or Tenant’s use or occupancy of, or any interest of Tenant in, the Premises.

28.5 *Governing Law.* This Lease, its interpretation and performance, the relationship between the parties, and any disputes arising from or relating to any of the foregoing, shall be governed, construed, interpreted, and regulated under the Laws of the State, without regard to principles of conflict of laws.

28.6 *Partial Invalidity.* If any term or provision of this Lease or its application to any party or circumstance shall to any extent be invalid or unenforceable, then the remainder of this Lease, or the application of such term or provision to Persons or circumstances except those as to which it is invalid or unenforceable, shall not be affected by such invalidity. All remaining provisions of this Lease shall be valid and be enforced to the fullest extent Law allows.

28.7 *Principles of Interpretation.* No inference in favor of or against any party shall be drawn from the fact that such party has drafted any part of this Lease. The parties have both participated substantially in its negotiation, drafting, and revision, with advice from counsel and other advisers. A term defined in the singular may be used in the plural, and vice versa, all in accordance with ordinary principles of English grammar, which also govern all other language in this Lease. The words “include” and “including” shall be construed to be followed by the words: “without limitation.” Each of these terms shall be interpreted as if followed by the words “(or any part of it)” except where the context clearly requires otherwise: Building Equipment; FF&E; Fee Estate; Land; Leasehold Estate; Premises; Structure; and any other similar collective noun. Every reference to any document, including this Lease, refers to such document as Modified

from time to time (except, at Landlord's option, any Modification that violates this Lease), and includes all exhibits, schedules, and riders to such document. The word "or" includes the word "and."

28.8 *Reasonableness.* Wherever this Lease states that a party shall not unreasonably withhold approval: (a) such approval shall not be unreasonably delayed or conditioned; (b) no withholding of approval shall be deemed reasonable unless withheld by Notice specifying reasonable grounds, in reasonable detail, for such withholding, and indicating specific reasonable changes in the proposal under consideration that would make it acceptable; (c) if a party grants its consent (or fails to object) to any matter, this shall not waive its rights to require such consent for any further or similar matter; and (d) any dispute on the withholding or delay of consent shall be determined by arbitration. Any consent or approval which is not stated to be able to be withheld or granted in a party's sole and absolute discretion shall be subject to the reasonableness standard described above.

28.9 *Books and Records.* To the extent that the services provided under this Agreement are deemed by the Secretary of the U.S. Department of Health and Human Services, the U.S. Comptroller General, or the Secretary's or Comptroller's delegate, to be subject to the provisions of Section 952 of Public Law 96-499, the parties, until the expiration of four (4) years subsequent to the furnishing of services under this Agreement, shall make available, upon written request of the Secretary, the Comptroller, or any of their duly authorized representatives this Lease, and the books, documents, and records of the parties that are necessary to certify the nature and extent of the charges to Tenant's patients.

If any party carries out any of its duties under this Lease through a subcontract, with a value of \$10,000 or more over a twelve (12)-month period, with a related organization (as that term is defined with regard to a provider in 42 C.F.R. 413.17(1)), such subcontract shall contain a clause to the effect that until the expiration of four (4) years after the furnishing of such services pursuant to such subcontract, the related organization upon written request shall make available, to the Secretary, the Comptroller, or any of their duly authorized representatives the subcontract, and books, documents, and records of such organization that are necessary to verify the nature and extent of such costs.

If any party is requested to disclose any books, documents, or records relevant to this Agreement for the purpose of an audit or investigation related directly to the provision of services under this Agreement (e.g. a governmental investigation of billing practices or services provided to hospital patients), such party shall Notify the other party of the nature and scope of such request and shall make available to the other party, upon written request, all such books, documents, or records.

*[Signatures on Next Page.]*

IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease on the Commencement Date.

**LANDLORD**

TULARE LOCAL HEALTHCARE DISTRICT,  
a local health care district of the State of California

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

**TENANT**

ADVENTIST HEALTH TULARE,  
a California nonprofit religious corporation

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

***Attachments:***

**Exhibit A** = Land Legal Description

**Exhibit B** = Notice Addresses (Including Required Copy Recipients)

**Exhibit C** = Service Area

Schedule 7.1 = Construction Contemplated with Remaining Bond Funds

Schedule 15.7 = No Other Tenants

**EXHIBIT A**  
**LAND LEGAL DESCRIPTION**

Real property in the City and County of Tulare, State of California,  
described as follows:

**EXHIBIT B**  
**NOTICE ADDRESSEES (INCLUDING REQUIRED COPY RECIPIENTS)**

<b>Party:</b>	<b>Notice Address:</b>	<b>With a Copy to:</b>
Landlord	Tulare Local Healthcare District 1255 N. Cherry #536 Tulare, California 93274 Attention: Kevin Northcraft, President; Michael Jamaica, Vice President	McCormick Barstow LLP 7647 North Fresno Street P. O. Box 28912 Fresno, California 93729-8912 Attention: Todd Wynkoop, Esq
Tenant		Adventist Health 2100 Douglas Boulevard Roseville, California 95661 Attention: Office of General Counsel  And to:  Latham & Watkins LLP 355 South Grand Avenue, Suite 100 Los Angeles, California 90071-1560 Attention: Daniel K. Settelmayer, Esq.

**EXHIBIT C  
SERVICE AREA**

**Schedule 3.4**  
SCHEDULE OF OFFSET AMOUNTS

- (a) Offsets Arising under the Asset Purchase Agreement
  
- (b) Offsets Arising under the Credit Agreement
  
- (c) Offsets Arising under the Other Transaction Documents

**Schedule 7.1**  
CONSTRUCTION CONTEMPLATED WITH REMAINING BOND FUNDS

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.

**Schedule 15.2**  
MATERIAL LITIGATION/PROCEEDINGS

**Schedule 15.7**  
NO OTHER TENANTS

<b>Owner/ Lessor</b>	<b>Lessee</b>	<b>Property Leased</b>	<b>Premises Description and Permitted Use</b>	<b>Termination Date</b>
Tulare Local Healthcare District				
Tulare Local Healthcare District				
Tulare Local Healthcare District				