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12-R-0277

(Do Not Write Above This Line)

A RESOLUTION BY: COUNCIL MEMBER ~~MARK~~ J. BOND

AUTHORIZING THE MAYOR TO ENTER INTO A LEASE AGREEMENT WITH THE TENET HEALTH SYSTEM GB, INC., DBA ATLANTA MEDICAL CENTER ON BEHALF OF THE ATLANTA POLICE DEPARTMENT, FOR THE RENTAL OF 1065 SQUARE FEET OF OFFICE SPACE LOCATED AT 340 BOULEVARD, N.E., ATLANTA, GEORGIA, FOR A DEPARTMENT OF POLICE ZONE SIX MINI-PRECINCT FROM THE PERIOD OF 2012 THROUGH 2020, AT A RENTAL RATE OF \$0 PER YEAR; AND FOR OTHER PURPOSES.

As Amended

ADOPTED BY

MAR 05 2012

- CONSENT REFER COUNCIL
- REGULAR REPORT REFER
- ADVERTISE & REFER
- 1st ADOPT 2nd READ & REFER
- PERSONAL PAPER REFER

Date Referred 2/20/12

Referred To: P5/14A

Date Referred

Referred To:

Date Referred

Referred To:

First Reading

Committee Date Chair Referred To

P5/14A Committee

Date 2/20/12

Chair

Action

Fav, Adv, Hold (see rev. side)

Other

Members

Refer To

Committee

Date

Chair

Action

Fav, Adv, Hold (see rev. side)

Other

Members

Refer To

Committee

Date

Chair

Action

Fav, Adv, Hold (see rev. side)

Other

Members

Committee

Date

Chair

Action

Fav, Adv, Hold (see rev. side)

Other

Members

Refer To

Refer To

FINAL COUNCIL ACTION

2nd  1st & 2nd  3rd

Readings

Consent  V Vote  RC Vote

CERTIFIED

CERTIFIED MAR 05 2012

COUNCIL PRESIDENT PROTREM

CERTIFIED MAR 05 2012

MUNICIPAL CLERK

MAYOR'S ACTION

APPROVED

MAR 14 2012

WITHOUT SIGNATURE BY OPERATION OF LAW



CITY COUNCIL  
ATLANTA, GEORGIA

12-R-0277

A RESOLUTION

BY: COUNCIL MEMBER MICHAEL J. BOND

AS AMENDED BY FULL COUNCIL

**AUTHORIZING THE MAYOR TO ENTER INTO A LEASE AGREEMENT WITH THE TENET HEALTH SYSTEM GB, INC., DBA ATLANTA MEDICAL CENTER ON BEHALF OF THE ATLANTA POLICE DEPARTMENT, FOR THE RENTAL OF 1065 SQUARE FEET OF OFFICE SPACE LOCATED AT 340 BOULEVARD, N.E., ATLANTA, GEORGIA, FOR A DEPARTMENT OF POLICE ZONE SIX MINI-PRECINCT FROM THE PERIOD OF MARCH 1, 2012 THROUGH MARCH 1, 2014, AT A RENTAL RATE OF \$1.00 PER YEAR,; AND FOR OTHER PURPOSES..**

**WHEREAS**, the Department of Police seeks to occupy 1065 square feet of office space at 340 Boulevard, N.E., pursuant to a lease agreement between the Tenet Health System GB, Inc., DBA Atlanta Medical Center, and the City of Atlanta; and

**WHEREAS**, the Tenet Health System GB, Inc., DBA Atlanta Medical Center has offered a lease agreement, a copy of which is attached as "EXHIBIT A" for 1065 square feet of office space at 340 Boulevard, N.E, Atlanta, Georgia, at an annual rental rate of \$1.00 per year, that will allow the Atlanta Police Department to maintain a Zone Six Mini-Precinct from March 1, 2012 until March 1, 2014, at a rental rate of \$1.00 per year; and

**WHEREAS**, the Department of Police desires to occupy 1065 square feet of office space at 340 Boulevard, N.E, identified as Suite G1 for use as a Police Zone Six Mini-Precinct.

**NOW, THEREFORE BE IT RESOLVED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA**, that the Mayor be and is hereby authorized to enter into a lease agreement with the Tenet Health System GB, Inc., DBA Atlanta Medical Center on behalf of the Atlanta Police Department, for the lease of 1065 square feet of office space at 340 Boulevard, N.E, identified as Suite G1, Atlanta, Georgia, for a Department of Police Zone Six Mini-Precinct, from March 1, 2012 until March 1,2014, at a rental rate of \$1.00 per year.

**BE IT FURTHER RESOLVED**, that the City Attorney be and is hereby directed to review the lease agreement prior to execution by the Mayor.

**BE IT FINALLY RESOLVED**, that the agreement shall not be binding upon the City and the City will incur no obligation or liability under it until it has been approved by the City Attorney as to form, executed by the Mayor, and attested to by the Municipal Clerk.

A true copy,

  
Deputy Clerk

ADOPTED as amended by the Council  
APPROVED as per City Charter Section 2-403

MAR 05, 2012  
MAR 14, 2012



## LEASE AGREEMENT

**THIS LEASE AGREEMENT** (the "Lease") is made and entered into as of the later of December 1, 2011, or the execution of the Lease by both parties (the "Effective Date") between **TENET HEALTHSYSTEM GB, INC.**, a Georgia corporation doing business as, **ATLANTA MEDICAL CENTER** ("Landlord") and the **CITY OF ATLANTA** ("Tenant").

### WITNESSETH:

**WHEREAS**, Landlord is the possessor of the use of that certain professional office building known as the 340 Building ("Building"), located at 340 Boulevard, N.E., in the City of Atlanta, Fulton County, Georgia; and

**WHEREAS**, Tenant desires to enter into a lease for office space in said Building.

**NOW, THEREFORE**, Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, a portion of the Building upon the following terms and conditions:

1. **LEASED PREMISES.** The portion of the Building leased to Tenant by Landlord shall consist of approximately 1065 usable square feet of office space, located on the Ground floor, hereby designated as Suite G1 of the Building, as outlined for descriptive purposes only on Schedule 1, attached hereto (hereinafter referred to as the "Premises"). Landlord and Tenant hereby acknowledge and agree that the Premises (a) do not exceed that which is commercially reasonable and necessary for the legitimate business purposes of this Lease; (b) are used exclusively by Tenant on a full-time basis during the Term (as defined in Section 3 below); and (c) represent all of the premises leased between Landlord and Tenant during the Term.

2. **COMMON AREAS.** In addition to the Premises hereinabove described, Tenant shall have nonexclusive use of the common area(s), including corridors, lobbies, elevators, and rest rooms, for Tenant and Tenant's employees, clients and patrons, subject to such reasonable rules and regulations which may from time to time be adopted by Landlord or an authorized authority. Additional Landlord Rules and Regulations are attached hereto as Exhibit A and incorporated herein by this reference. Use of the common areas shall be included in the base rent set forth in Section 4.a hereof.

3. **PARKING AREAS.** Tenant shall have exclusive use of the exterior drive, outside and parallel to the Boulevard Lobby, as permanent parking for patrol cars.

4. **TERM.**

a. The term of this Lease ("Term") shall be for a period of two (2) years. Notwithstanding the foregoing, in the event that Landlord has agreed to construct tenant improvements to the Leased Premises (the "Tenant Improvements"), Exhibit B hereto shall govern with respect to the Effective Date of the Term, as well as any other terms and conditions related to the Tenant Improvements. Notwithstanding said Effective Date, if for any reason Landlord cannot deliver possession of the Premises to Tenant on said date, Landlord shall not be subject to any liability therefor, nor shall such failure affect the validity of this Lease or the obligations of Tenant hereunder, or extend the term hereof, but in such case Tenant shall not be



obligated to pay rent until possession of the Premises is tendered to Tenant. The Term shall be automatically extended on a month-to-month basis for up to six (6) months if the parties continue to abide by the terms and conditions of this Lease without (i) having executed a renewal of this Lease, (ii) executed a new lease for the same or other premises, or (iii) advised the other party of such party's intent not to renew this Lease.

b. Should Tenant hold over and remain in possession of the Premises after the expiration of this Lease, then during such tenancy, monthly rent shall be payable in an amount equal to the rent paid for the last month of the term hereof plus fifteen percent (15%) of the monthly base rental amount. All other terms and conditions of this Lease shall continue in full force and effect during such hold-over tenancy. Notwithstanding the foregoing, Landlord may use all reasonable and appropriate legal remedies to cause Tenant to vacate the Premises.

c. Tenant shall vacate the Premises in the same good repair as received on the Effective Date, ordinary wear and tear excepted, and, provided Tenant is not in default under the terms hereof, shall remove from the Premises all Tenant's personal property in order that Landlord can repossess the Premises on the day this Lease or any extension hereof expires or is sooner terminated. Any removal of Tenant's property by Tenant shall be accomplished in a manner that will minimize any damage or injury to the Premises, and any such damage or injury shall be forthwith repaired by Tenant at its/his/her sole cost and expense.

## 5. RENT.

a. Tenant shall pay to Landlord as base rent, without notice or demand and without abatement deduction or setoff, except as elsewhere provided herein, the annual amount of ZERO and ZERO/100 Dollars (\$0.00), or \$0.00 per square foot of rented space. Said base rent shall be paid in advance in equal monthly installments of ZERO and ZERO/100 Dollars (\$0.00), on the first day of each and every calendar month during the term of this Lease; provided, however, that in the event the term hereof commences on a day other than the first day of a calendar month, then upon the Effective Date hereof Tenant shall pay to Landlord a pro-rata portion of rent [and tax] to that portion of the calendar month remaining from the Effective Date to the first day of the next following calendar month.

b. The base rent as set forth above shall be increased annually, commencing with the date twelve months after the Effective Date of the term (the "Adjustment Date"), by the increase, if any, of the Consumer Price Index for U.S. Cities - "Urban Wage Earners and Clerical Workers," "All Items" ("Index"), as published by the United States Department of Labor Bureau of Labor Statistics, over the "Base Period Index." The "Base Period Index" shall be the index for the calendar month immediately preceding the Effective Date. The Base Period Index shall be compared with the Index for the same calendar month for the subsequent year ("Comparison Index"). If the Comparison Index is higher than the Base Period Index, then the base rent shall be increased by the identical percentage commencing on the Adjustment Date. Notwithstanding the foregoing, in no event shall the adjusted rent be less than the rent in effect immediately prior to the adjustment. When the adjusted rent for the Adjustment Date has been determined, Landlord shall give Tenant written notice of such adjusted rent; and, upon adjustment of the rent, any underpayment of rent from the Adjustment Date to the date Tenant is notified of the adjustment shall be immediately due and payable by Tenant. Landlord's failure or delay to notify Tenant of said rent adjustment shall not constitute a waiver of the right to any



adjustment provided for in this Lease. In the event that the Index shall be discontinued, then Landlord shall use an index substantially similar to the Index to calculate future adjustments.

c. No payment by Tenant or receipt by Landlord of a lesser amount than the monthly payment in this Lease shall be considered anything other than a payment on account of the earliest rent due, nor shall any endorsement or statement on any check or any letter accompanying any check or payment as rent be deemed in accord and satisfaction. Landlord may accept such payment without prejudice to its right to recover the balance of the rent and to pursue any other remedy provided for in this Lease, or otherwise available at law or in equity.

d. All payments under this Lease to be made by Tenant to Landlord shall be made payable to, and mailed or personally delivered to, Landlord at the following address, or such other place as may be designated in writing by Landlord:

Tenet HealthSystem Medical, Inc.  
P.O. Box 845610  
Dallas, Texas 75284-5610

e. If any rent or other payment under this Lease is not paid when due, it shall bear interest at the rate of ten percent (10%) per annum until paid, and in addition the rental payment shall be subject to a late service charge of Twenty-Five Dollar (\$25.00) per month if not paid on or before the tenth (10th) day of each month. However, this provision shall not relieve Tenant from any default.

f. If applicable in the jurisdiction where the Premises are situated, Tenant shall pay and be liable for all rental, sales and use taxes or other similar taxes, if any, levied or imposed by any city, state, county or other governmental body having authority, such payments to be in addition to all other payments required to be paid to Landlord by Tenant under the terms of this Lease. Any such payment shall be paid concurrently with the payment of the rent upon which such tax is based.

6. **ADDITIONAL RENT.** All taxes, charges, costs, and expenses that Tenant assumes or agrees to pay hereunder, together with all interest and penalties that may accrue thereon in the event of failure of Tenant to pay those items and all other damages, costs, expenses, and sums that Landlord may suffer or incur, or that may become due, by reason of any default of Tenant or failure by Tenant to comply with the terms and conditions of this Lease shall be deemed to be additional rent; and, in the event of nonpayment, Landlord shall have all rights and remedies as herein provided for failure to pay rent.

7. **REASONABLE RENT.** Landlord and Tenant hereby acknowledge and agree that the rental payments required pursuant to this Lease are the product of bona fide, arms-length negotiations and represent the commercially reasonable, fair market value of the Premises for general commercial purposes, without taking into account the intended use of the Premises or the volume or value of any actual or expected federal health care program or other referrals to, or business otherwise generated for, either Landlord or Tenant. The rental payments do not reflect any additional value Landlord or Tenant may attribute to the proximity or convenience of the Premises to sources of referrals or business otherwise generated for which payment may be made in whole or in part under any federal health care program.



8. **DELIVERY OF PREMISES.** If Landlord for any reason cannot deliver possession of the Premises to Tenant on the Effective Date, this Lease shall not be void or voidable, nor shall Landlord be liable to Tenant for any loss or damage resulting therefrom, but there shall be an abatement of rent for the period between the Effective Date and the time when Landlord does deliver possession. Landlord shall provide to Tenant not less than thirty (30) days advance notice of such tender date and which shall henceforth be deemed the Effective Date of this Lease. Notwithstanding anything to the contrary in this Lease, if possession of the Premises is not delivered by Landlord to Tenant within sixty (60) days of the Effective Date as hereinabove specified (unless delivery is delayed by force majeure or other cause beyond the reasonable control of Landlord), either Landlord or Tenant may terminate this Lease without liability by written notice to the other. The expiration date of the term of this Lease shall not be extended by virtue of delay in Landlord's delivery of the Premises to Tenant. Subsequent renewal terms shall be for a period of twelve (12) months from the Effective date of the renewal term.

9. **USE OF PREMISES.**

a. Tenant shall use and occupy the Premises throughout the term of the Lease solely for the purpose of operating a police precinct, and for no other purpose whatsoever. Tenant agrees not to operate a public clinic of any kind or character on the Premises. Tenant recognizes that these restrictions on the use of the Premises are a material consideration for Landlord to enter into this Lease.

b. Tenant shall comply with all laws, ordinances, rules, regulations and codes of all municipal, county, state and federal authorities pertaining to the use and occupation of the Premises. No use shall be made or permitted to be made of the Premises, nor acts done, which will increase the existing rate of insurance upon the Building in which said Premises may be located, or cause a cancellation of any insurance policy covering said Building, or any part thereof, nor shall Tenant sell, or permit to be kept, used, or sold, in or about said Premises, any article which may be prohibited by the standard form of fire insurance policies. Tenant shall not commit, or suffer to be committed, any waste upon said Premises or any public or private nuisance, or other act or thing which may disturb the quiet enjoyment of any other tenant in the Building in which the Premises may be located, nor, without limiting the generality of the foregoing, shall Tenant allow said Premises to be used for any improper, immoral, unlawful or objectionable purpose, or for the keeping, storing or selling of intoxicating liquors, or for any kind of eating house, or for sleeping purposes, or for washing clothes, or cooking therein, and nothing shall be prepared, manufactured or mixed in said Premises which might emit an odor in the corridors of said Building, nor shall Tenant use any apparatus, machinery or devices in or about the Premises which shall make any noise or set up any vibration or which shall in any way increase the amount of electricity, water or compressed air agreed to be furnished or supplied under this Lease (if any), and Tenant further agrees not to connect with electric wires, water or air pipes any apparatus, machinery or device without the consent of Landlord.

10. **ENVIRONMENTAL COMPLIANCE/HAZARDOUS MATERIALS.**

a. **Definitions.** "Hazardous Materials" shall mean any material, substance or waste that is or has the characteristic of being hazardous, toxic, ignitable, reactive or corrosive, including, without limitation, petroleum, PCBs, asbestos, materials known to cause cancer or



reproductive problems and those materials, substances and/or wastes, including infectious waste, medical waste, and potentially infectious biomedical waste, which are or later become regulated by any local governmental authority, the state in which the Premises are located or the United States Government, including, but not limited to, substances defined as "hazardous substances," "hazardous materials," "toxic substances" or "hazardous wastes" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. § 9601, et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. § 1801, et seq.; the Resource Conservation and Recovery Act, and any law, ordinance or regulation dealing with underground storage tanks; and in the regulations adopted, published and/or promulgated pursuant to said laws, and in any other environmental law, regulation or ordinance now existing or hereinafter enacted, including without limitation those relating to biomedical and infectious waste (collectively, "Hazardous Materials Laws").

**b. Landlord's Representations and Warranties re: Condition of Premises at Commencement of Lease.** Landlord hereby represents and warrants to Tenant as follows, which representations are made as of the date of execution of the Lease and as of the Lease Effective Date:

(1) **No Violation of Hazardous Materials Laws.** Landlord has not generated, manufactured, refined, transported, treated, stored, handled, disposed of, transferred, produced or processed any Hazardous Materials on the Premises, except in full compliance with all Hazardous Materials Laws, and Landlord has no knowledge of any ongoing release of Hazardous Materials on, under or about the Premises.

(2) **No Notices, Litigation or Liens.** Landlord has not received any written request for information, notice, demand letter, administrative inquiry or formal or informal complaint or claim from or by any public or private agency or entity concerning any release or discharge of any Hazardous Materials on, under, about or off of the Premises or any alleged violation of any Hazardous Materials Laws involving the Premises or any property in the vicinity of the Premises. No litigation is pending or, to the actual knowledge of Landlord without investigation, expressly threatened in writing with respect to the Premises concerning any Hazardous Materials or any Hazardous Materials Laws. No lien has been imposed or, to the actual knowledge of Landlord without investigation, threatened to be imposed against the Premises by any governmental agency or entity in connection with the presence of Hazardous Materials or violation of any Hazardous Materials laws on or off of the Premises.

(3) **Radon Gas.** Tenant acknowledges that radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Tenant further acknowledges that levels of radon that exceed federal and state guidelines have been found in buildings in the state in which the Premises are located and that additional information regarding radon and radon testing may be obtained from your county public health unit.

**c. Use of Premises by Tenant; Remediation of Contamination Caused By Tenant.**

(1) **Use.** Tenant hereby agrees that Tenant and Tenant's officers, directors, employees, representatives, agents, contractors, subcontractors, successors, assigns,



sublessees, concessionaires, invitees and any other occupants of the Premises (for purposes of this Section, referred to collectively herein as "Tenant Representatives") shall not use, generate, manufacture, refine, produce, process, store or dispose of, on, under or about the Premises or transport to or from the Premises any Hazardous Materials, except in compliance with applicable Hazardous Materials Laws. Furthermore, Tenant shall at its/his/her own expense procure, maintain, and comply with all conditions of, any and all permits, licenses and other governmental and regulatory approvals required for the storage, use or disposal by Tenant or any of Tenant's Representatives of Hazardous Materials on the Premises, including without limitation, discharge of (appropriately treated) materials or wastes into or through any sanitary sewer serving the Premises.

(2) **Remediation.** If at any time during the term, any contamination of the Premises by Hazardous Materials shall occur where such contamination is caused by the act or omission of Tenant or Tenant's Representatives ("Tenant Contamination"), then Tenant, at Tenant's sole cost and expense, shall promptly and diligently remove such Hazardous Materials from the Premises or the property or the groundwater underlying the Premises in accordance with the requirements of the applicable Hazardous Materials Laws and industry standards then prevailing in the Hazardous Materials management and remediation industry in the state in which the Premises are located. Tenant shall not take any required remedial action in response to any Tenant's Contamination in or about the Premises or enter into any settlement agreement, consent, decree or other compromise in respect to any claims relating to any Tenant's Contamination without first notifying Landlord of Tenant's intention to do so and affording Landlord the opportunity to appear, intervene or otherwise appropriately assert and protect Landlord's interest with respect thereto. In addition to all other rights and remedies of Landlord hereunder, if Tenant does not promptly and diligently take all steps to prepare and obtain all necessary approvals of a remediation plan for any Tenant's Contamination, and thereafter commence the required remediation of any Hazardous Materials released or discharged in connection with Tenant's Contamination within thirty (30) days after Landlord has reasonably approved Tenant's remediation plan and all necessary approvals and consents have been obtained and thereafter continue to prosecute said remediation to completion in accordance with the approved remediation plan, then Landlord, at its sole discretion, shall have the right, but not the obligation, to cause said remediation to be accomplished, and Tenant shall reimburse Landlord within fifteen (15) business days of Landlord's demand for reimbursement of all amounts reasonably paid by Landlord (together with interest on said amounts at the lower of (a) 18% or (b) the highest lawful rate until paid), when said demand is accompanied by proof of payment by Landlord of the amounts demanded. Tenant shall promptly deliver to Landlord copies of hazardous waste manifests reflecting the legal and proper disposal of all Hazardous Materials removed from the Premises as part of Tenant's remediation of any Tenant's Contamination.

(3) **Disposition of Hazardous Materials.** Except as discharged into the sanitary sewer or otherwise removed from the Premises in strict accordance and conformity with all applicable Hazardous Materials Laws, Tenant shall cause any and all Hazardous Materials removed from the Premises as part of the required remediation of Tenant's Contamination to be removed and transported solely by duly licensed haulers to duly licensed facilities for final disposal of such materials and wastes.



d. **Notice of Hazardous Materials Matters.** Each party hereto (for purposes of this Section, "Notifying Party") shall immediately notify the other party (for purposes of this Section, "Notice Recipient") in writing of: (i) any enforcement, clean-up, removal or other governmental or regulatory action instituted, contemplated or expressly threatened in writing concerning the Premises pursuant to any Hazardous Materials Laws; (ii) any claim made or threatened by any person against the Notifying Party or the Premises relating to damage contribution, cost recovery, compensation, loss or injury resulting from or claimed to result from any Hazardous Materials on or about the Premises; and (iii) any reports made to any environmental agency arising out of or in connection with any Hazardous Materials in or removed from the Premises including any complaints, notices, warnings or asserted violations in connection therewith, all upon receipt by the Notifying Party of actual knowledge of any of the foregoing matters. Notifying Party shall also supply to Notice Recipient as promptly as possible, and in any event within five (5) business days after Notifying Party first receives or sends the same, with copies of all claims, reports, complaints, notices, warnings or asserted violations relating in any way to the Premises or Tenant's use thereof.

11. **UTILITIES AND SERVICES.**

a. Landlord agrees to furnish the Premises with heat and air conditioning during reasonable and customary business hours while Tenant is not in default under any of the provisions of this Lease, and subject to the regulations of the Building wherein the Premises are situated. Landlord shall furnish elevator services, if installed, normal water and normal electric current for lighting ordinary medical equipment and business appliances, such as electric system. Landlord may impose a reasonable charge for any utilities and services, including, without limitation, air conditioning, electrical current, and water provided by Landlord by reason of any substantial use of the Premises at any time other than the hours set forth above or for any use beyond that which Landlord agrees herein to furnish or because of special electrical, cooling, and ventilating needs created by Tenant's telephone equipment, computers, and other equipment or uses. Landlord shall maintain and repair the plumbing within the Premises, except where a repair to same is needed as a result of Tenant's, its/his/her employees' or invitees' negligence or misuse, and Tenant agrees to pay for all other services supplied to said Premises not enumerated in this Section. Landlord shall be responsible for the removal of Tenant's trash, provided same be requested by Tenant, but said trash shall be placed by Tenant in its/his/her containers which shall be located within Tenant's Premises. Landlord shall maintain in good order and repair and in a clean and orderly condition the roof, exterior walls, and public areas in the Building of which Premises are a part, together with any parking area owned by Landlord which is adjacent to the Building. Landlord agrees to provide five (5) days per week cleaning services. Landlord, however, shall not be liable for failure to furnish any of the foregoing when such failure is caused by conditions beyond the control of Landlord, or by accidents, repairs or strikes, nor shall such failure constitute an eviction; nor shall Landlord be liable under any circumstances for loss of or injury to property, however occurring, through or in connection with or incidental to the furnishing of any of the foregoing.

b. Notwithstanding any of the provisions of Section 9, Tenant shall be responsible for the lawful removal and cost of removing infectious waste from the Premises.

12. **TENANT'S TAXES AND ASSESSMENTS.** Tenant covenants and agrees to pay promptly when due all personal property taxes or other taxes and assessments levied and



assessed by any governmental authority upon the property of Tenant in, upon or about the Premises.

13. **ALTERATION OF PREMISES.** Tenant shall maintain the Premises in good condition and shall not alter, repair or change the Premises without the prior written consent of Landlord, which consent shall not be unreasonably withheld. Unless otherwise provided by written agreement, all alterations, improvements, and changes that may be required shall be done either by or under the direction of Landlord, but at the expense of Tenant. Such alterations, improvements, and changes shall remain a part of and be surrendered with the Premises unless Landlord directs, in writing at least 60 days prior to termination of the Lease term, the Premises to be restored to the original condition. Such restoration shall be accomplished on or before the expiration of this Lease at the expense of Tenant.

14. **INSURANCE.**

a. During the Term of this Lease, Landlord shall secure and maintain a general liability policy with such coverage and at such limits as Landlord shall deem appropriate. Landlord shall also maintain policies of insurance insuring the Building and its contents (other than Tenant's property as set out in the sections below) against loss or damage by fire or other casualty, with extended coverage. Tenant shall not be named as an insured party in the policies, and Tenant shall have no right to any part of the proceeds thereof.

b. Tenant shall secure and maintain at all times during the Term, at Tenant's sole expense, commercial general liability insurance covering Tenant, and all of Tenant's employees, with a carrier licensed to do business in the State and having at least an "A" BEST rating, at the following limits:

Commercial General Liability covering bodily injury and property damage to third parties and including Products/Completed Operations, Blanket Contractual Liability, Personal/Advertising Injury, Fire Legal, and Medical Payments:

- \$1,000,000 per occurrence; \$2,000,000 general aggregate;
- \$1,000,000 per occurrence Personal/Advertising Injury;
- \$1,000,000 Products/Completed Operations aggregate;
- \$100,000 Fire Legal Liability;
- \$5,000 Medical Payments

Such insurance shall name Landlord and Landlord's mortgagee as additional insureds and shall not be cancelable except upon 30 days' prior written notice to Landlord. Such coverage shall be primary and non-contributory. Tenant shall annually provide Landlord a certificate of insurance evidencing such coverage and coverage extensions.

c. Tenant shall also secure and maintain at all times during the Term, at Tenant's sole expense, workers' compensation and employers' liability insurance covering Tenant's employees, with a carrier licensed to do business in the State and having at least an "A" BEST rating, at the following limits:

Workers' Compensation: Statutory limits



Employers' Liability:           \$1,000,000 each accident;  
  \$1,000,000 disease policy limit;  
  \$1,000,000 disease each employee

Such coverage shall be placed as an actual Workers' Compensation policy, not as a health benefits policy, and shall be endorsed to include (1) a waiver of subrogation in favor of Landlord, and (2) a 30-day notice of cancellation. Such coverage shall be primary and non-contributory. Tenant shall annually provide a certificate of insurance to Landlord evidencing such coverage and coverage extensions.

d. Tenant shall secure and maintain at all times during the Term, at Tenant's sole expense, professional liability insurance covering Tenant, and all of Tenant's healthcare professional employees, with a carrier licensed to do business in the State and having at least an "A" BEST rating, at the following limits:

\$1,000,000 per claim/occurrence and \$3,000,000 aggregate

Such coverage shall be primary and non-contributory. Tenant shall annually provide Landlord a certificate of insurance evidencing such coverage and coverage extensions. This coverage shall be either (1) on an occurrence basis or (2) on a claims-made basis. If the coverage is on a claims-made basis, Tenant hereby agrees that prior to the effective date of termination of Tenant's current insurance coverage, Tenant shall purchase, at Tenant's sole expense, either a replacement policy annually thereafter having a retroactive date no later than the Effective Date or unlimited tail coverage in the above stated amounts for all claims arising out of incidents occurring prior to termination of Tenant's current coverage or prior to termination of this Lease, and Tenant shall provide Landlord a certificate of insurance evidencing such coverage.

e. Tenant shall secure and maintain at all times during the Term, at Tenant's sole expense, builders' risk coverage for the full construction cost of the project on a replacement cost basis, and a bid bond and subsequently a performance bond for the intended work for 100% of the value of the work. Such insurance shall name Landlord (or, at Landlord's request, Landlord's mortgagee) as a Loss Payee.

f. Tenant shall secure and maintain at all times during the Term, at Tenant's sole expense, all risk property insurance covering tenant improvements and betterments and Tenant's personal property. Valuation shall be at replacement cost. Landlord (or, at Landlord's request, Landlord's mortgagee) shall be named as Loss Payee under Tenant's insurance coverage for tenant improvements and betterments.

g. Anything in this lease to the contrary notwithstanding, Landlord and Tenant each hereby waives any and all rights of recovery, claim, action or cause of action, against the other, their respective affiliates, or the agents, servants, partners, members, shareholders, officers or employees thereof, for any loss or damage that may occur to the leased premises, the associated project, or any improvements thereto or thereon, or any property of such party therein or thereon, by reason of fire, the elements, or any other cause that is, or is required to be, insured against under the terms of this Lease. THE FOREGOING WAIVERS SHALL APPLY REGARDLESS OF THE AMOUNT OF THE PROCEEDS PAYABLE UNDER SUCH INSURANCE POLICIES AND THE CAUSE OR ORIGIN OF THE LOSS, INCLUDING THE



NEGLIGENCE OF THE OTHER PARTY HERETO, THEIR RESPECTIVE AFFILIATES, OR THE AGENTS, OFFICERS, PARTNERS, MEMBERS, SHAREHOLDERS, SERVANTS OR EMPLOYEES THEREOF. Landlord and Tenant each covenant and agree that no insurer shall hold any right of subrogation or assignment of any claim against such other party, regardless of whether such claim relates to an insured loss or otherwise. Landlord and Tenant shall advise insurers of the foregoing waiver and such waiver shall be a part of each policy maintained by Landlord and Tenant.

h. Landlord may from time to time modify or supplement the insurance coverage to be maintained by Tenant both as to type and coverage amount.

#### 15. INDEMNIFICATION OF LANDLORD.

a. Tenant, as a material part of the consideration to be rendered to Landlord under this Lease, hereby waives all claims against Landlord for damages to goods, wares, and merchandise in and about said Premises and for injuries to persons in or about said Premises from any cause beyond Landlord's control. Tenant shall save Landlord harmless for and on account of any and all damage or injury to any person or to the goods, wares or merchandise of any person arising from the failure of Tenant to keep the Premises in good condition as herein provided. Tenant shall indemnify, protect, defend, and hold Landlord harmless from and against any and all claims, liabilities, losses, damages, and suits arising from Tenant's use, occupancy or enjoyment of the Premises and its facilities or the conduct of Tenant's business or from any activity, work or things done, permitted or suffered by Tenant, or its/his/her agents and employees in or about the Premises, and Tenant further agrees to indemnify, protect, defend, and hold Landlord harmless from and against any and all claims arising from any breach or default in the performance of any obligation on Tenant's part to be performed under the terms of this Lease or arising from any negligence of Tenant, or any of its/his/her agents, contractors, employees, invitees or licensees, and from and against all costs, attorneys' fees, expenses, and liabilities of any kind incurred in or about any such claim or any action or proceeding brought thereon; and in case any action or proceeding be brought against Landlord by reason of any such claim, Tenant, upon notice from Landlord, shall defend the same at Tenant's sole cost and expense by counsel reasonably satisfactory to Landlord. Landlord shall not be liable to Tenant for any damage resulting from the negligence of any co-tenant or other occupant of the same Building or by any owner or occupant of adjoining or contiguous property. Tenant agrees to pay for all damages to the Building as well as all damage to the tenants or occupants thereof caused by Tenant's negligence, misuse, or neglect of said Premises, its apparatus or appurtenances.

b. In case Landlord shall, without fault on its part, be made a party to any litigation commenced by or against Tenant, Tenant shall pay all costs and reasonable attorney's fees incurred by such litigation, and Tenant shall also pay all costs and reasonable attorney's fees incurred by or against Landlord in obtaining possession of the Premises upon the expiration or earlier termination of the term of this Lease or enforcing any other covenant of Tenant herein contained. All such costs and reasonable attorney's fees if paid by Landlord; and the payment of all monies provided in this Lease to be made by Tenant shall, if paid by Landlord, be, and they are hereby declared to be, a Landlord's lien upon Tenant's interest in any personal property placed upon the Premises at any time during the term of this Lease.



16. **MECHANIC'S LIENS.** Tenant shall not suffer nor permit any mechanic's liens or materialman's liens to be filed against the real property of which the Premises form a part nor against Tenant's leasehold interest in the Premises.

a. Landlord shall have the right at all reasonable times to post and keep posted on the Premises any notices which it deems necessary for protection from such liens. If such liens are so filed, Landlord, at its election, may pay and satisfy same and, in such event the sums so paid by Landlord, plus all related actual and other expenses, including attorney's fees, shall accrue interest at the rate of ten percent (10%) per annum from the date of payment and shall be deemed to be additional rent immediately due and payable by Tenant without notice or demand.

17. **ABANDONMENT OF PREMISES.** Tenant shall not vacate or abandon the Premises for a period greater than sixty (60) days at any time during the term of this Lease; and if Tenant shall abandon, vacate or surrender the Premises, or be dispossessed by process of law, or otherwise, any personal property belonging to Tenant and left on the Premises shall be deemed abandoned, at the option of Landlord.

18. **LANDLORD'S RIGHT OF ENTRY.** Landlord or its agents shall have the right to enter the Premises at reasonable times in order to examine it, to show it to prospective tenants, lenders, ground lessors, and purchasers, or to make such decorations, repairs, alterations, improvements or additions as Landlord shall deem necessary or desirable, including, but not limited to, the construction/improvement of offices adjacent to or above the Premises. Landlord will give Tenant reasonable notice of its requirements, and will be responsible for conducting such work so as not to unreasonably impair Tenant's use and enjoyment of the Premises. Landlord shall be allowed to take all material into and upon the Premises that may be required therefor without the same constituting an eviction of Tenant in whole or in part. Tenant's rent shall be abated while decorations, repairs, alterations, improvements or additions are being made by Landlord only when there is a loss or interruption of the business of Tenant and only when such an abatement is warranted by the circumstances. The granting of such an abatement must be approved in writing by Landlord prior to the start of any improvements. If during the last month of the term Tenant has removed all or substantially all of Tenant's property therefrom, Landlord may immediately enter and alter, renovate, and redecorate the Premises without elimination or abatement of rent and without liability to Tenant for any compensation, and such acts shall have no effect upon this Lease. If Tenant is not personally present to open and permit any entry into the Premises at any time when for any reason an entry therein shall be necessary or permissible, Landlord or its agents may enter the Premises without rendering Landlord or such agents liable therefor (if during such entry Landlord or its agents accord reasonable care to Tenant's property), and without in any manner affecting the obligations and covenants of this Lease. Landlord's right to re-entry shall not be deemed to impose upon Landlord any obligation, responsibility, or liability for the care, supervision or repair of the Premises other than herein provided; except that Landlord shall use reasonable care to prevent loss or damage to Tenant's property resulting from Landlord's entry. Landlord shall have the right at any time, without effecting an actual or constructive eviction and without incurring any liability to Tenant therefor, to change the arrangement or location of entrances or passageways, doors and doorways, corridors, elevators, stairs, toilets or other public parts of the Building and to change the name, number or designation by which the Building is commonly known.



**19. DESTRUCTION OF PREMISES; EMINENT DOMAIN.**

a. In the event of a partial destruction of the Premises during the term of this Lease from any cause, Landlord shall forthwith repair the same, provided such repair can be made within sixty (60) days under laws and regulations; and in such event rent will be abated until the damage is repaired, in proportion to the part of the Premises which is so rendered untenable, unless such damage was a result, in whole or in part, of the negligence or willful misconduct of Tenant. In addition to the above, in the event that the Building is destroyed to the extent of not less than thirty-three and one-third percent (33 1/3%) of the replacement cost thereof, Landlord may elect to terminate this Lease, whether or not the Premises are insured, by written notice to Tenant. A total destruction of the Building in which the said Premises are situated shall terminate this Lease. Notwithstanding the aforesaid provisions, in the event the damage caused by the partial destruction of the Premises cannot be repaired within a period of six (6) months from the happening of such damage, then either Landlord or Tenant may terminate this Lease upon written notice to the other.

b. For the purposes of this Lease, the word "condemned" is coextensive with the phrase "right to eminent domain," that is, the right of the people or government to take property for government use, and shall include the intention to condemn expressed in writing as well as the filing of any action or proceeding for condemnation.

c. If any action or proceeding is commenced for the condemnation of the Premises or any portion thereof, or if Landlord is advised in writing by any government (federal, state or local) agency or department or bureau thereof, or any entity or body having the right or power of condemnation, of its intention to condemn all or any portion of the Premises at the time thereof, or if the Premises or any part or portion thereof be condemned through such action, then and in any of said events: (a) Landlord may, without any obligation or liability to Tenant, and without affecting the validity and existence of this Lease other than as hereafter expressly provided, agree to sell and/or convey to the condemnor, without first requiring that any action or proceeding be instituted, or if such action or proceeding shall have been instituted, without requiring any trial or hearing thereof, and Landlord is expressly empowered to stipulate to judgment therein, the part and portion of the Premises sought by the condemnor, free from this Lease and the rights of Tenant hereunder; or (b) Tenant shall have no claim against Landlord nor be entitled to any part or portion of the amount that may be paid or awarded as a result of the sale, for the reasons as aforesaid, or condemnation of the Premises or any part or portion thereof. Tenant is hereby assigning, transferring, and setting over unto Landlord any interest, if any, which Tenant would, but for this provision, have in, to, upon or against the Premises or any part or portion thereof, or the amount agreed to be paid and/or awarded and paid to Landlord, excepting only Tenant shall be entitled to seek to recover as against the condemnor, and Landlord shall have no claim for or thereto for Tenant's trade fixtures and any removable structures and improvements erected and made by Tenant to or upon the Premises which Tenant is entitled to remove at the expiration of this Lease.

d. If only a part of the Premises is condemned and taken and the remaining portion thereof is not suitable for purposes for which Tenant has leased said Premises, either Landlord or Tenant shall have the option to terminate this Lease at the time of such taking. If by such condemnation and taking only a part of the Premises is taken, and the remaining part thereof is suitable for the purposes for which Tenant has leased said Premises, this Lease shall



continue, but the rental shall be reduced in an amount proportionate to the percentage that the floor area of that portion of the Premises taken by eminent domain bears to the floor area of the entire Premises.

## 20. TERMINATION.

a. **Merger, Consolidation, Etc.** If Tenant is a corporation, professional association, professional corporation, limited liability company, or general or limited partnership, upon the happening of any of the following events this Lease may be terminated by Landlord on thirty (30) days' prior written notice to Tenant of Landlord's intent to terminate the Lease:

(1) The merger or consolidation of such corporation or professional association, professional corporation, limited liability company, or general or limited partnership into or with another; or

(2) The sale, exchange, or other disposition of the majority of the outstanding stock of such corporation, professional corporation or professional association or the majority of the member or partnership interests of such, limited liability company or partnership, resulting in the loss of control thereof by such person who is the majority shareholder, member or partner, as the case may be upon the date of the execution thereof.

b. **Termination for Changes in Law.** In the event that any governmental or nongovernmental agency, or any court or administrative tribunal passes, issues or promulgates any new, or change to any existing, law, rule, regulation, standard, interpretation, order, decision or judgment (individually or collectively, "Legal Event"), which a party (the "Noticing Party") reasonably believes (i) materially and adversely affects either party's licensure, accreditation, certification, or ability to refer, to accept any referral, to present a bill or claim, or to receive payment or reimbursement from any governmental or non-governmental payor, or (ii) indicates a Legal Event with which the Noticing Party desires further compliance, then, in either event, the Noticing Party may give the other party thirty (30) days prior written notice of its intent to amend or terminate this Lease. Notwithstanding the foregoing, the Noticing Party may propose an amendment to the Lease to take into account the Legal Event, and, if accepted by the other party prior to the end of the thirty (30) day notice period, the Lease shall be amended as of the date of such acceptance and if not amended shall automatically terminate.

c. **Abbreviated Term.** Notwithstanding the Lease Term and payments provided for in Sections 3 and 4 above, should Tenant (or majority shareholder) member, partner or the like if Tenant is a corporation, professional association, limited liability company, partnership or similar entity (each, a "Tenant Physician") be rendered unable to continue the practice of medicine during the term of this Lease for reasons of his/her death or severe long-term illness or other physical or mental incapacity, this Lease shall expire of its own accord on the last day of the second full month following Landlord's receipt of such notice or upon vacation of the Premises, whichever first occurs. Future payments following such expiration, which would otherwise be required under Section 4, shall be waived by Landlord. Such abbreviated Lease term shall be subject to each and every other term and condition herein, including the right of Landlord to require restoration of the Premises to their original condition at Tenant's expense, as provided under Section 12, and Landlord's right to charge Tenant's (or a



Tenant Physician's) estate for such costs of restoration in case of Tenant's (or a Tenant Physician's) decease.

d. **Bankruptcy.** If a general assignment is made by Tenant for the benefit of creditors, or any action is taken by Tenant under any insolvency or bankruptcy act, or if a receiver is appointed to take possession of all or substantially all of the assets of Tenant (and Tenant fails to terminate such receivership within sixty (60) days after such appointment), or if Tenant is adjudicated a bankrupt, then this Lease shall terminate upon the occurrence of any such contingency and shall expire as fully and completely as if the day of the occurrence of such contingency were the date specified in this Lease for the expiration thereof. Tenant will then quit and surrender the Premises to Landlord.

e. **Default.** If Tenant fails to pay any rent or other sum due hereunder at the time set forth in this Lease, and if Tenant continues to fail to pay same within five (5) days after same is due, or in the event Tenant fails to perform or observe any other covenant to be performed by Tenant under this Lease and continues to fail to perform or observe same for a period of fifteen (15) days after receipt of written notice from Landlord pertaining thereto (or a reasonable period of time, using the due diligence, if such default cannot be cured within said fifteen (15) day period), then Tenant shall be deemed to have breached this Lease and Landlord, at its option, may have any one or more of the following remedies, in addition to other rights or remedies it may have at law or in equity: (i) continue this Lease in effect by not terminating Tenant's right of possession of the Premises, and thereby be entitled to enforce all Landlord's rights and remedies under this Lease, including the right to recover the rent specified in this Lease as it becomes due under this Lease; or (ii) terminate Tenant's right to possession of the Premises, thereby terminating this Lease, and recover as damages from Tenant: (a) the worth at the time of award of the unpaid rent which had been earned at the time of termination of the Lease; (b) the worth at the time of award of the amount by which the unpaid rent which would have been earned after termination of the Lease until the time of award exceeds the amount of rental loss that Tenant proves could have been reasonably avoided; (c) the worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of rental loss that Tenant proves could be reasonably avoided; and (d) any other amount necessary to compensate Landlord for all detriment proximately caused by Tenant's failure to perform its obligations under this Lease; or (iii) in lieu of, or in addition to, bringing an action for any or all of the recoveries described above, bring an action to recover and regain possession of the Premises in the manner provided by the laws of unlawful detainer then in effect in the state in which the Premises are located.

21. **SURRENDER OF LEASE.** The voluntary or other surrender of this Lease by Tenant, or mutual cancellation thereof, shall not cause a merger at law and shall, at the option of Landlord, terminate all or any existing subleases or subtenancies, or may, at the option of Landlord, operate as an assignment of any or all such subleases or subtenancies to Landlord.

22. **RULES AND REGULATIONS.** Tenant shall comply with all reasonable rules and regulations now or hereinafter adopted by Landlord during the existence of this Lease posted in or about the said Building, or otherwise brought to the notice of Tenant, both in regard to the Building as a whole and to the Premises herein leased. Current rules and regulations governing Tenant's conduct in the Building are attached hereto as Exhibit A.



23. **COMPLIANCE WITH LAWS AND REGULATIONS.**

a. **In General.** During the Term of this Lease, each party shall comply with applicable federal, state and local laws and regulations.

b. **No Violation of Law.** Each party represents and warrants to the other party that it shall not knowingly violate any federal, state or local laws or regulations by entering into this Lease or performing its obligations hereunder.

c. **Exclusion, Debarment, or Suspension.** Each party represents and warrants that neither it nor any of its employees or agents have been excluded from participation in any federal health care program, as defined under 42 U.S.C. § 1320a-7b(f), for the provision of items or services for which payment may be made under such federal health care programs, nor been debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency. Each party shall promptly notify the other party in the event that such party or any employee or agent of such party is excluded from participation in, or is otherwise unable to participate in, a federal health care program, or is debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded by any federal department or agency. In the event that Tenant is so excluded, debarred, suspended or can no longer participate in any federal health care program, Landlord shall have the right immediately to terminate this Lease.

d. **No Condition of Referrals.** Neither the selection of Tenant nor the terms and conditions of this Lease shall be conditioned on Landlord or Tenant (i) making referrals to the other; (ii) being in a position to make or influence referrals to the other, or (iii) otherwise generating business for the other.

24. **NOTICES.** All notices hereunder shall be in writing, delivered personally, by certified or registered mail, return receipt requested, or by overnight courier, and shall be deemed to have been duly given when delivered personally or when deposited in the United States mail, postage prepaid, or deposited with the overnight courier addressed at the place identified on the signature page below.

25. **ASSIGNMENT AND SUBLETTING.** Tenant shall not assign or sublease all or any part of the Premises under this Lease, except with the prior written consent of Landlord. This Lease is assignable by Landlord without consent or notice.

26. **ATTORNEY'S FEES.** In the event of any legal or equitable action arising out of this Lease, the prevailing party shall be entitled to recover all fees, costs and expenses, together with reasonable attorney's fees incurred in connection with such action. The fees, costs, and expenses so recovered shall include those incurred in prosecuting or defending any appeal and shall be awarded for any supplemental proceedings until final judgment is satisfied in full. The prevailing party shall also be entitled to reasonable attorney's fees incurred to collect or enforce the judgment.

27. **GOVERNING LAW.** This Lease shall be governed by the laws of the state in which the Premises are located.



28. **BROKERS.** Tenant and Landlord each warrants that he/she/it has had no dealings with any real estate broker or agent in connection with the negotiation of this Lease.

29. **JUDGMENT COST.** Should Landlord, without fault on Landlord's part, be made a party to any litigation instituted by or against Tenant, or by or against any person holding the Premises by license of Tenant, or for foreclosure of any lien for labor or material furnished to or for Tenant, or any such person, or otherwise arising out of or resulting from any act or transaction of Tenant, or of any such person, Tenant covenants to pay to Landlord, the amount of any judgment rendered against Landlord or the Premises or any part thereof, and all costs and expenses, including actual attorney's fees incurred by Landlord or in connection with such litigation.

30. **SUBORDINATION OF LEASE.** This Lease is subject and subordinate to any mortgages which may now or hereafter be placed upon or affect the property or Building of which the Premises are a part, and to all renewals, modifications, consolidations, replacements, and extensions hereof. This clause shall be self-operative, and no further instrument or subordination shall be necessary unless requested by a mortgagee. In furtherance of such subordination, Tenant shall execute any document that Landlord or Landlord's lender or ground lessor, if any, may reasonably request.

31. **ESTOPPEL CERTIFICATES.** Tenant shall, at any time and from time to time, upon not less than ten (10) days' prior request by Landlord, execute, acknowledge, and deliver to Landlord, or to such other persons who may be designated in such request, a statement in writing certifying that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified and stating the modifications) and, if so, the dates to which the rent and any other charges have been paid in advance, and containing other statements and certifications reasonably requested by Landlord. It is intended that any such statement delivered pursuant to this Section may be relied upon by Landlord and any prospective purchaser or encumbrancer (including assignee) of the Premises.

32. **QUIET ENJOYMENT.** Landlord warrants that Tenant shall be granted peaceable and quiet enjoyment of the Premises free from any eviction or interference by Landlord if Tenant pays the rent and other charges provided herein, and otherwise fully and punctually performs the terms and conditions imposed on Tenant.

33. **GENERAL PROVISIONS.**

a. The waiver by Landlord of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition contained herein. The acceptance of rent hereunder shall not be construed to be a waiver of any breach by Tenant of any term, condition or covenant of this Lease.

b. It is understood and agreed that the remedies herein given to Landlord shall be cumulative, and the exercise of any one remedy of Landlord shall not be to the exclusion of any other remedy.



c. The covenants and conditions herein contained shall, subject to the provisions as to assignment, apply to and bind the heirs, successors, executors, administrators, and assigns of all of the parties hereto; and all of the parties hereto shall be jointly and severally liable hereunder.

d. Time is of the essence of this Lease.

e. This Lease, including any Exhibits referred to herein, cover in full each and every agreement of every kind or nature, whatsoever kind or nature are merged herein. Landlord has made no representations or promises whatsoever with respect to the Premises, except those contained herein, and no other person, firm or corporation has at any time had any authority from Landlord to make any representations or promises on behalf of Landlord; and Tenant expressly agrees that if any such representations or promises have been made by others, Tenant hereby waives all right to rely thereon. No verbal agreement or implied covenant shall be held to vary the provisions hereof, any statute, law or custom to the contrary notwithstanding.

f. The captions of the sections of this Lease are for convenience only, and do not in any way limit or amplify the terms and provisions of this Lease.

g. If any term, covenant, condition or provision of this Lease is held by a court competent of jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

34. **CORPORATE AUTHORITY.** If Tenant executes this Lease as a corporation, each of the persons executing this Lease on behalf of Tenant does hereby personally covenant and warrant that Tenant is a duly authorized and existing corporation, that Tenant was and is qualified to do business in the state in which the Premises are located, that the corporation has full right and authority to enter into this Lease, and that each person signing on behalf of the corporation was authorized to do so.

35. **NEGOTIATED INSTRUMENT.** This is a negotiated Lease between the parties hereto, and shall not be construed against any party as a result of his or her attorney having drafted this Lease. Both parties have had the opportunity to have their respective attorneys review this Lease and fully understand the terms of this Lease.

36. **COMPLIANCE OBLIGATIONS.** Tenant represents that it read, understands, and shall abide by Tenet's Standards of Conduct. The parties to this Lease shall comply with Tenet's Compliance Program and Tenet's policies and procedures related to the Deficit Reduction Act of 2005, Anti-Kickback Statute and the Stark Law. Tenet's Standards of Conduct, summary of Compliance Program, and policies and procedures, including a summary of the Federal False Claims Act and applicable state false claims laws (collectively "False Claims Laws") with descriptions of penalties and whistleblower protections pertaining to such laws, are available at: <http://www.tenethealth.com/about/pages/ethicscompliance.aspx>. Tenant shall require any employees providing services to Landlord to read the Standards of Conduct and information concerning Tenet's Compliance Program and abide by same. Further, the parties to this Lease certify that they shall not violate the Anti-Kickback Statute and Stark Law, and shall abide by the



Deficit Reduction Act of 2005, as applicable, in providing services to Landlord. Hardcopies of any information shall be made available upon request.

37. **EXCLUSION LISTS SCREENING.** Tenant shall screen all of its current and prospective owners, legal entities, officers, directors, employees, contractors, and agents ("Screened Persons"), if any, against (a) the United States Department of Health and Human Services/Office of Inspector General List of Excluded Individuals/Entities (available through the Internet at <http://www.oig.hhs.gov>), (b) the General Services Administration's List of Parties Excluded from Federal Programs (available through the Internet at <http://www.epls.gov>); and (c) any applicable state healthcare exclusion list (collectively, the "Exclusion Lists") to ensure that none of the Screened Persons are currently excluded, debarred, suspended, or otherwise ineligible to participate in Federal healthcare programs or in Federal procurement or nonprocurement programs, or have been convicted of a criminal offense that falls within the ambit of 42 U.S.C. § 1320a-7(a), but have not yet been excluded, debarred, suspended, or otherwise declared ineligible (each, an "Ineligible Person"). If, at any time during the term of this Lease any Screened Person becomes an Ineligible Person or proposed to be an Ineligible Person, Tenant shall immediately notify Hospital of the same. Screened Persons shall not include any employee, contractor or agent who is not providing services to Hospital under this Lease.

**LANDLORD:**

**TENET HEALTHSYSTEM GB, INC.  
D/B/A ATLANTA MEDICAL CENTER**

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

Name: William T. Moore

Title: CEO

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

Address: 303 Parkway Drive, N.E.  
Atlanta, GA 30312

**TENANT:**

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

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

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

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

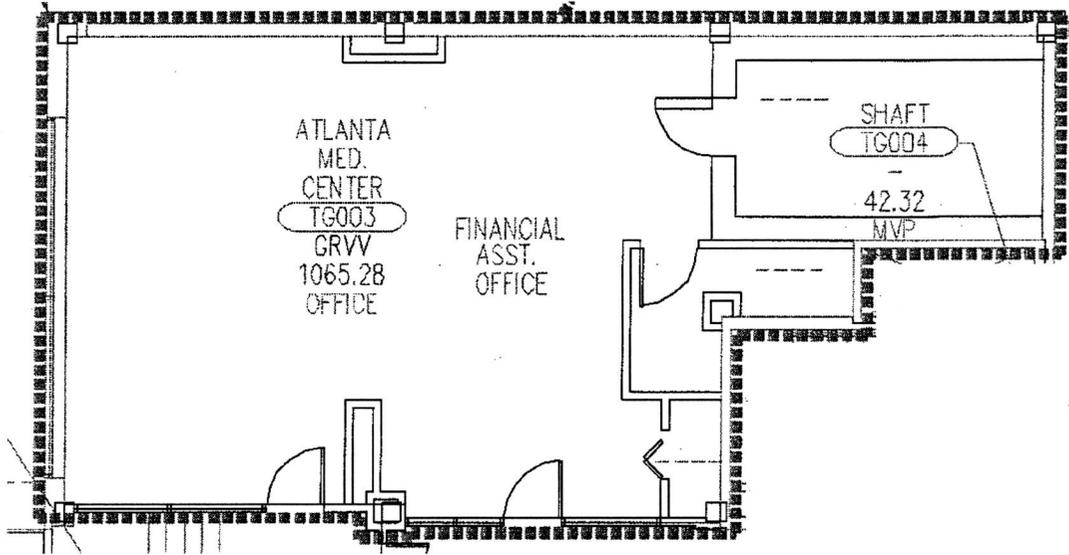
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## SCHEDULE 1

### DESCRIPTION/FLOOR PLAN OF PREMISES

As Attached



Schedule 1



**EXHIBIT A**  
**RULES AND REGULATIONS**  
**ATTACHED TO AND MADE A PART OF THIS LEASE**

1. The sash doors, sashes, windows, glass doors, lights, and skylights that reflect or admit light into the halls or other places of the Building shall not be covered or obstructed, except as designated by Landlord. All doors opening onto public corridors shall be kept closed, except when in use for ingress and egress.
2. No sign, nor advertisement, nor notice, shall be inscribed, painted or fixed on or to any part of the outside or inside of the Building unless it is of such color, size and style, and in such a place upon or in the Building, as may be designated by Landlord, in its sole discretion. All signs on doors or window glass will be painted for tenants by Landlord, but the cost of painting shall be paid by tenant.
3. Electric wiring of any kind shall be introduced and connected as directed by Landlord and no boring nor cutting for wires will be allowed except with the consent of Landlord.
4. No additional lock or locks shall be placed by tenants on any door in the Building unless written consent of Landlord shall have first been obtained. Two (2) keys will be furnished by Landlord for each suite, and any additional keys required must be obtained from Landlord. Tenants shall be charged for additional keys at Landlord's cost. All keys shall be surrendered to Landlord upon termination of the tenancy. Tenant will not change any of his/her/its locks without first notifying Landlord in writing of such change.
5. Tenant shall not employ any person or persons other than the janitor of Landlord for the purposes of cleaning the leased premises without the consent of Landlord. Landlord shall be in no way responsible to any tenant for any loss of property from the leased premises, however occurring, or for any damage done to the effects of any tenants by the janitor or any other of Landlord's employees, or by any other person. Janitor's service will not include the cleaning of carpets and rugs.
6. All freight must be moved into, within and out of the Building under the supervision of Landlord, and according to such regulations as may be posted in the Office of the Building, but Landlord will not be responsible for loss or damage to such freight from any cause.
7. The requirements of tenants will be accommodated only upon application at the Office of the Building. Landlord's employees shall not perform any work nor do anything outside of their regular duties unless under special instructions from the Office, and no employee shall admit any person (tenant or otherwise) to any office without instructions from the Office of the Building.



8. Landlord reserves the right to change the name of the Building, and from time to time make such alterations and repairs as deemed advisable by Landlord to the exterior of the Building and to the lobby and other public areas of which the leased premises are a part.
9. The water and wash closets and other plumbing fixtures shall not be used for any purpose other than those for which they were constructed, and no sweeping, rubbish, rags or other substances shall be thrown therein. All damages resulting from any misuse of the fixtures shall be borne by the tenant who, or whose servants, employees, agents, visitors, or licensees shall have caused the same.
10. No tenant shall mark, paint, drill into, or in any way deface any part of the premises or the Building. No boring, cutting or stringing of wires or laying of linoleum or other similar floor coverings shall be permitted, except with the prior written consent of Landlord, and as Landlord may direct. Tenant may hang pictures and plaques in the leased premises.
11. No bicycles, vehicles or animals of any kind shall be brought into or kept in or about the leased premises, and no cooking shall be done or permitted by any tenant on the premises, except that the preparation of coffee, tea, hot chocolate and similar items for tenants and their employees shall be permitted. No tenant shall cause or permit any unusual or objectionable odors to be produced upon or permeate the premises.
12. The leased premises shall not be used for manufacturing or for the storage of merchandise except as such storage may be incidental to the use of the premises for medical practice purposes.
13. No tenant, nor any tenant's servants, employees, agents, visitors or licensees, shall at any time bring or keep upon the leased premises any inflammable, combustible or explosive fluid, chemical or substance, other than chemicals necessary for the practice of medicine.
14. Canvassing, soliciting and peddling in the Building are prohibited and each tenant shall cooperate to prevent the same.
15. At any time while a watchman is in charge of the Building, any person entering or leaving the Building may be questioned by him as to his/her business in the building; and anyone not satisfying the watchman of his/her right to enter the Building may be removed by him.
16. Landlord reserves the right to make such other and further rules and regulations as in its judgment may from time to time be reasonably necessary for the safety and cleanliness of and for the preservation of good order in the Building and leased premises therein.



## EXHIBIT B

### TENANT IMPROVEMENTS

In the event that Landlord has agreed to construct Tenant Improvements with respect to the Leased Premises, the following terms and conditions shall govern:

1. **Term Effective Date.** The Term shall begin upon the date when construction of the Tenant Improvements has been completed in accordance with approved plans and specifications, and the City of Atlanta has made a final field inspection and has issued a certificate of occupancy in connection with the premises ("Effective Date").

2. **Tenant Improvements.**

a. **Tenant Improvements.** Subject to approval of final plans and specifications and payment by Tenant of any excess cost, Landlord agrees to construct the Tenant Improvements in accordance with Landlord's Improvement Allowance described in Section d. herein.

b. **Final Plans.** Landlord shall submit to Tenant for his/her/its review and approval, which approval shall not be unreasonably withheld, final architectural working drawings and specifications (the "Final Plans") for the Tenant Improvements. Tenant shall either approve or disapprove the Final Plans within ten (10) days after receipt thereof. In the event that Tenant shall disapprove the Final Plans, it/he/she shall specify in reasonable detail the reasons therefor and Landlord shall revise and resubmit the Final Plans accordingly. If Tenant shall not approve or disapprove the Final Plans within such ten (10) day period, as evidenced by written notice to Landlord, Tenant shall be deemed to have approved the Final Plans. The Tenant Improvements shall be performed substantially in accordance with the Final Plans and in a good workmanlike manner.

c. **Governmental Approvals.** Landlord shall be responsible, at its sole cost and expense, for obtaining approval of the Final Plans by all governmental agencies having jurisdiction over the premises and for obtaining all necessary licenses and permits in connection with the Tenant Improvements, including temporary and permanent Certificates of Occupancy for the premises. Tenant shall reasonably cooperate with Landlord in obtaining such approvals and permits.

d. **Improvement Allowance.** Landlord shall contribute a sum of up to \_\_\_\_\_ Dollars (\$\_\_\_) per usable square foot of the premises ("Landlord's Improvement Allowance") toward the cost of said Tenant Improvements. Landlord and Tenant hereby acknowledge and agree that Landlord's Improvement Allowance is the product of bona fide, arms-length negotiations and represents a commercially reasonable, fair market value tenant improvement allowance, without taking into account the intended use of the Premises or the volume or value of any actual or



expected federal health care program or other referrals to, or business otherwise generated for, either Landlord or Tenant.

Tenant shall be responsible for all costs and expenses incurred in excess of the Improvement Allowance ("Tenant's Improvement Allowance"). Tenant's obligation to pay such excess costs shall be limited to the amount approved by Tenant in accordance with Final Plans or otherwise authorized or approved by Tenant. Landlord shall not authorize the construction of any Tenant Improvements that will result in additional costs or schedule changes unless Tenant shall have approved the additional scope of work in writing and delivered its written approval of the cost of such work to Landlord. Any work authorized by Landlord without Tenant's written approval shall be done at Landlord's sole expense and shall not be paid for out of Tenant's Improvement Allowance. Tenant may audit the invoices and other evidence of the expenditures in order to confirm that such evidence is consistent with the other information received by Landlord and Tenant as to the projected and actual costs of the Tenant Improvements, such audit to be at Landlord's sole cost and expense during reasonable times and at Tenant's offices or such other place as the parties shall mutually agree upon.

e. **Quality Control.**

(1) Landlord shall receive and forward, as required, shop drawings, material transmittals, etc.; make recommendations as to approval or disapproval; and, where substitutions are proposed, make recommendations as to their suitability. Final approval authority shall rest with Tenant, who shall not unreasonably withhold approval.

(2) In addition to Tenant's quality inspection, Landlord will provide construction surveillance and quality assurance inspection of all phases of the work.

(3) Landlord shall schedule and conduct pre-final and final inspections and, in conjunction with Tenant, develop punch lists and obtain their completion.

(4) Landlord shall arrange for and conduct required regulatory inspections and provide "as built" drawings.

f. **Inspection by Tenant.**

(1) Tenant and Tenant's Representative shall at all times have free access to the premises for inspection purposes so long as the same does not interfere with the performance of Landlord's work; provide, however, Landlord shall have the right to restrict Tenant and Tenant's Representatives from the premises for safety purposes. In addition, if the final plans, laws, ordinances, rules, regulations or orders of any public authority having jurisdiction require any of the work to be



inspected, tested or approved, Landlord shall give Tenant timely notice of its readiness and of the date arranged so that Tenant may observe such inspection, testing or approval.

(2) If Tenant wishes to observe the inspections, tests or approvals required hereby, it/he/she will do so or promptly waive the right thereto in writing.

g. **Completion.**

(1) Landlord shall obtain the building permits to construct the Tenant Improvements as soon as possible. Landlord shall complete the construction of the Tenant Improvements as soon as reasonably possible after obtaining the necessary building permits. The term "Completion" as used with reference to the Tenant Improvements is hereby defined as the date when the construction of the Tenant Improvements has been substantially completed in accordance with the approved Final Plans so that Tenant can lawfully occupy and utilize the premises for the purpose for which they are intended, subject to normal punch list items, and the City of \_\_\_\_\_ has made a final field inspection and has issued a certificate of occupancy (which may be temporary or permanent) in connection with the premises, if appropriate.

(2) Landlord shall use its best efforts to complete construction of the Tenant Improvements by \_\_\_\_\_, 20\_\_ (hereinafter "Estimated Completion Date"). If Landlord is delayed at any time in the progress of the construction of the Tenant Improvements by strikes, lockouts, fire, delay in transportation, unavoidable casualties, rain or weather conditions, the actions or omissions of Tenant or Tenant's Representatives (including failure to timely approve plans or charge orders), or by any other cause beyond Landlord's control ("unavoidable delay"), then the Estimated Completion Date shall be extended by the period of such unavoidable delay. A delay shall not be considered an unavoidable delay if there is a practical alternative available to Landlord that would not increase the cost of the Tenant Improvements. If the Tenant Improvements are not completed by the Estimated Completion Date, this Lease shall not be rendered invalid, but rather Landlord shall complete same as soon thereafter as possible and Landlord shall not be liable to Tenant for damages in any respect whatsoever.

(3) After completion of the Tenant Improvements, Tenant shall not be entitled to any unused portion of Landlord's Improvement Allowance.

h. **Warranty re Improvements.** In lieu of all other warranties, express or implied concerning latent or patent defects, Landlord guarantees that the Tenant Improvements including, but not limited to, plumbing, lighting, air conditioning, and doors and windows, will be free from defects in workmanship and/or material for a period of ninety (90) days from the Effective Date. If Landlord receives, within said time period, written notification from Tenant setting forth with specificity any such defects, Landlord shall promptly, at its sole cost and expense,



repair the same. If Landlord does not receive said written notification within said time period, time being of the essence, it shall be conclusively presumed that Landlord has performed all the obligations required of it by reason of the construction of the Tenant Improvements. Landlord will assign to Tenant all warranties received by Landlord on equipment installed in the Leased Premises which is not to be maintained by Landlord. Tenant hereby reassigns said warranties to Landlord as of the expiration or earlier termination of this Lease. Tenant hereby waives and disclaims any and all other warranties, whether oral or written, express, implied, statutory or otherwise, with respect to the premises or the condition thereof.

3. **Default.** If Tenant shall be in default of this Lease, then as part of Landlord's damages Tenant shall immediately pay to Landlord an amount equal to the amount Landlord contributed as an allowance pursuant to Section 2.d above.

RCS# 1777  
3/05/12  
2:29 PM

Atlanta City Council

12-R-0277

LEASE AGREEMENT W/TENET HEALTH SYSTEM GB  
FOR RENTAL OF SPACE @ 340 BOULEVARD, NE  
ADOPT AS AMNDED

YEAS: 11  
NAYS: 0  
ABSTENTIONS: 0  
NOT VOTING: 0  
EXCUSED: 0  
ABSENT 5

Y Smith	Y Archibong	Y Moore	Y Bond
Y Hall	Y Wan	Y Martin	B Watson
Y Young	B Shook	B Bottoms	Y Willis
Y Winslow	Y Adrean	B Sheperd	B Mitchell

12-R-0277