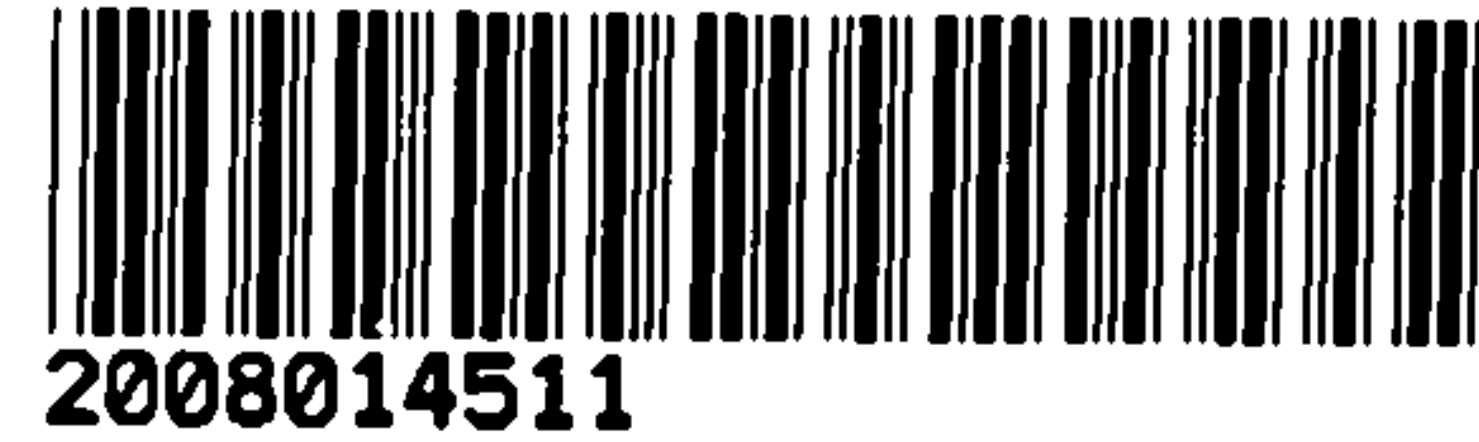


Rec. § 86.50

Prepared by and return to:  
Terri Salt Costa, Esq.  
Williams, Parker, Harrison, Dietz & Getzen  
200 South Orange Avenue  
Sarasota, Florida 34236  
(941) 366-4800

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SARASOTA COUNTY, FLORIDA  
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**MEMORANDUM OF LEASE**

**THIS MEMORANDUM OF LEASE** is made and effective this 30 day of January, 2008 between Sarasota County Public Hospital Board a body corporate under the laws of the State of Florida ("Landlord"), and Waldemere Ventures, LLC, a Florida limited liability company ("Tenant"),  
RECITALS:

A. By virtue of a Lease dated January 30, 2008, Landlord has leased to Tenant the real property described in Exhibit "A" attached hereto ("Land"), together with and including certain Easements that benefit the land as more specifically identified in the Easements Agreement and Temporary Easement Agreement between the parties and recorded simultaneously in the public records.

B. During the term of the Lease Tenant is the owner of the buildings, structures and other improvements located and to be located in the future on the Land ("Improvements"), and

C. The Lease sets forth certain rights and obligations of the parties with respect to the Land and the Improvements, and

D. Landlord and Tenant desire to place of record a memorandum of the Lease to place third parties on notice of the existence of same.

NOW, THEREFORE, in consideration of the Recitals and the mutual covenants hereinafter contained, the parties agree as follows:

1. Landlord does hereby lease unto Tenant the Land in accordance with the terms, covenants, and conditions set forth in the Lease. The provisions of the Lease shall bind and inure to the benefit of Landlord and Tenant and their respective successors and assigns. The Lease provides for a term of ninety nine (99) years.

2. No lien arising under Part I of Chapter 713, Florida Statutes, or any statute of similar import, shall extend to the interest of Landlord in the Land. Tenant is precluded by the terms of the Lease from creating or allowing to be created against Landlord's title to or interest in the Land, any construction liens, or any other liens permitted under the Florida Construction Lien Law, and all persons claiming by, through, under or against Tenant are hereby notified that Tenant has no power or authority to subject the title or interest of Landlord, as fee owner of the Land, to any claim for such lien. All persons dealing with Tenant and claiming by, through, under or against Tenant shall look solely to Tenant for the payment of any and all charges incurred in improving the Land and Improvements at any time during the term of the Lease.

3. The terms and provisions of the Lease are incorporated herein by reference.

4. The Lease contains use restrictions as more particularly described on Exhibit B.

5. Tenant's Governing Documents provide a mechanism by which physician tenants can obtain an equity interest in Tenant or in the Premises ("Equity Interest"). The Lease contains a provision

that provides that until October 15, 2012, neither Tenant nor any of its successors or assigns will allow or permit anyone other than the Permitted Equity Owners (as defined in the Lease) to own an Equity Interest or have an option or similar right to obtain such Equity Interests. That provision, known as Article 25 is set forth on the attached Exhibit C.

6. Landlord has a Right of First Opportunity on an assignment by Tenant of its interest under the Lease and sale of the Improvements. The recording of an affidavit by the then existing Tenant of record certifying that the terms of the Right of First Opportunity have been complied with and that notice has been given to Landlord of such compliance, and the absence of the recording of a Lis Pendens within 10 days of the delivery of the affidavit to Landlord, shall be conclusive evidence of the compliance with such Right of First Opportunity. The Right of First Opportunity shall be binding upon the successor with regard to any subsequent third party conveyance from such third party.

7. Tenant has a Right of First Opportunity on a sale of the Land or Landlord's estate. The recording of an affidavit by the then existing Landlord of record certifying that the terms of the Right of First Opportunity have been complied with and that notice has been given to Tenant of such compliance, and the absence of a Lis Pendens within 10 days of the delivery of the affidavit to Tenant, shall be conclusive evidence of the compliance with such Right of First Opportunity. The Right of First Opportunity shall be binding upon the successor with regard to any subsequent third party conveyance from such third party.

**IN WITNESS WHEREOF**, the parties have caused this Memorandum of Lease to be executed by their respective duly authorized officers the day and year first above written.

WITNESSES:

**LANDLORD**

Sarasota County Public Hospital Board

By: *Donna Barcomb*  
Print Name Donna Barcomb  
As its Chairman

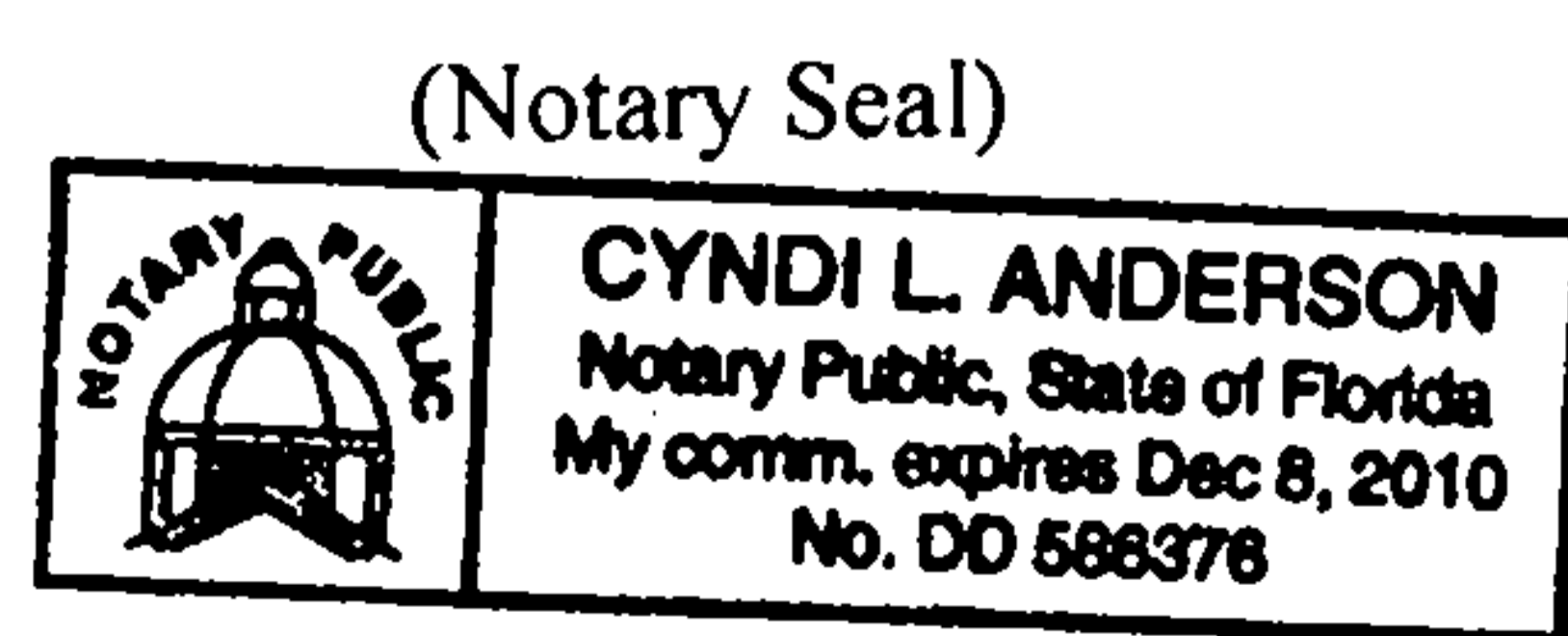
*Cyndi L Anderson*  
Signature of witness  
**CYNDI L. ANDERSON**  
Print name of witness

*Jennifer Hawkins Dyda*  
Signature of witness  
*Jennifer Hawkins Dyda*  
Print name of witness

STATE OF FLORIDA  
COUNTY OF SARASOTA

The foregoing instrument was acknowledged before me this 29<sup>th</sup> day of January, 2008 by Donna Barcomb, as Chairman, on behalf of Sarasota County Public Hospital Board. The above-named person is personally known to me or has produced Florida driver's license as identification. If no type of identification is indicated, the above-named person is personally known to me.

*Cyndi L Anderson*  
Signature of Notary Public  
\_\_\_\_\_  
Print Name of Notary Public



I am a Notary Public of the State of Florida and my \_\_\_\_\_ commission expires \_\_\_\_\_ on \_\_\_\_\_.

TENANT

Waldemere Ventures, LLC

By: [Signature]  
Paul R. Marcus  
As its Manager

[Signature]  
Signature of witness

William McAvey  
Print name of witness

[Signature]  
Signature of witness

Melissa Aouci  
Print name of witness

STATE OF Massachusetts  
COUNTY OF Suffolk

The foregoing instrument was acknowledged before me this 28<sup>th</sup> day of January, 2008 by Paul R. Marcus as manager of Waldemere Ventures, LLC, a Florida limited liability company on behalf of the company. The above-named person is personally known to me or has produced \_\_\_\_\_ as identification. If no type of identification is indicated, the above-named person is personally known to me.

[Signature]  
Signature of Notary Public

(Notary Seal)

Print Name of Notary Public  
I am a Notary Public of the State of \_\_\_\_\_ and  
my commission expires on \_\_\_\_\_



BARBARA A. STANLEY  
Notary Public  
Commonwealth of Massachusetts  
My Commission Expires  
February 4, 2011

*Terr Salt Costa*

Signature of witness

*Terr Salt Costa*

Print name of witness

*Jennifer Hawkins-Dyda*

Signature of witness

*Jennifer Hawkins-Dyda*

Print name of witness

Waldemere Ventures, LLC

By: *Brad S. Lerner*

Brad S. Lerner

As its Manager

STATE OF FLORIDA  
COUNTY OF SARASOTA

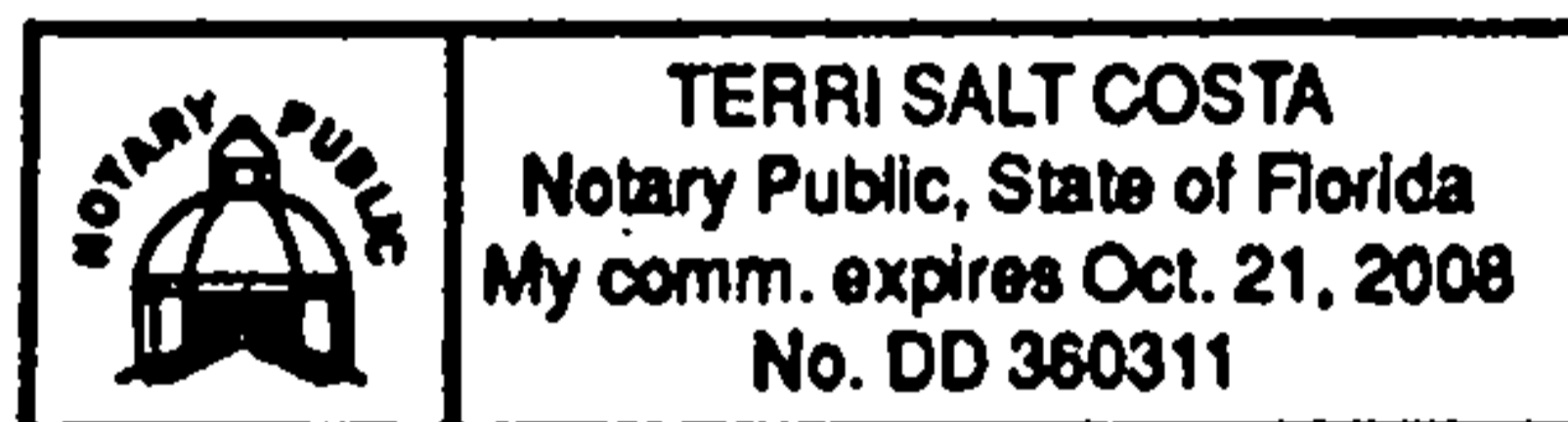
The foregoing instrument was acknowledged before me this 29 day of January, 2008 by Brad S. Lerner as manager of Waldemere Ventures, LLC, a Florida limited liability company on behalf of the company.. The above-named person is personally known to me or has produced \_\_\_\_\_ as identification. If no type of identification is indicated, the above-named person is personally known to me.

*Terr Salt Costa*  
Signature of Notary Public

(Notary Seal)

Print Name of Notary Public

I am a Notary Public of the State of Florida and my commission expires on \_\_\_\_\_



**EXHIBIT "A"**  
**To Memorandum of Lease**

**LEGAL DESCRIPTION**

Waldemere Medical Plaza Tract

**DESCRIPTION:**

Lots 1, 2, 3, 4, 5 and a portion of Lots 6, 7, and 9 of the plat titled A Resubdivision of Block B, Pine Grove as recorded in Plat Book 3, Page 93 of the Public Records of Sarasota County, Florida and more particularly described as follows:

Begin at the southwest corner of said plat, A Resubdivision of Block B, Pine Grove, also being the intersection of the north right-of-way of Waldemere Street (a variable width public right-of-way, fifty feet wide in this location) and the east right-of-way of Lasula Court (a forty-foot-wide public right-of-way); thence N.00°06'22"W. along the west line of said plat, A Resubdivision of Block B, Pine Grove, also along said east right-of-way of Lasula Court, a distance of 290.77 feet to the northwest corner of said plat, A Resubdivision of Block B, Pine Grove, also to the south right-of-way of Floyd Street (a forty-foot-wide public right-of-way); thence S.89°52'25"E. along the north line of said plat, A Resubdivision of Block B, Pine Grove, also along said south right-of-way of Floyd Street, a distance of 205.70 feet to the northerly extension of a line along the east exterior face of the Waldemere Medical Plaza building; thence S.00°12'03"W. along said east exterior face of the Waldemere Medical Plaza building, and its northerly and southerly extension, a distance of 101.49 feet to the north exterior face of the Cape Surgery building; (the following three (3) calls are along said north exterior face of the Cape Surgery building): (1) thence N.89°54'18"W., a distance of 56.66 feet; (2) thence N.00°12'03"E., a distance of 0.80 feet; (3) thence N.89°55'56"W., a distance of 4.65 feet to the approximate centerline of the party wall between the Waldemere Medical Plaza building and the Cape Surgery building; (the following six (6) calls are along said approximate centerline): (1) thence S.00°14'22"W., a distance of 60.68 feet; (2) thence N.89°47'30"W., a distance of 14.89 feet; (3) thence S.00°03'40"W., a distance of 22.10 feet; (4) thence S.49°18'05"E., a distance of 7.94 feet; (5) thence S.00°22'24"W., a distance of 26.42 feet; (6) thence S.78°30'29"W., a distance of 1.57 feet; thence S.00°10'35"W., a distance of 12.38 feet; thence S.52°13'31"E., a distance of 5.49 feet; thence S.00°10'35"W., a distance of 59.78 feet to the abovementioned north right-of-way of Waldemere Street; thence N.89°49'25"W. along said north right-of-way of Waldemere Street, a distance of 136.76 feet to the POINT OF BEGINNING;

**Exhibit B to Memorandum of Lease**  
Use Restrictions as set forth in Article 8 of the Lease

A. Restrictions – General. Medical office use and commercial use are the permitted uses for the Building; a minimum of 112,500 rentable square feet of the Building shall be used for medical office space (“MOB Component”) and a maximum of 37,500 rentable square feet of the Building shall be used for commercial space (“Commercial Component”). Any other use must receive the prior written approval of Landlord. The parties agree and understand that the restrictions set forth in this **Article 8.2** cannot bind or be deemed to impose upon any existing tenancy restrictions that are not currently contained in such tenant’s leases, and in the event any such existing tenancy would otherwise be in violation of the restrictions set forth in this **Article 8.2**, the same shall not constitute a default under this Lease (however, once an existing tenant’s lease term expires, as the same may be extended pursuant to options to extend or renew that are currently contained in such lease of such tenant, such tenant shall be required to comply with these restrictions if it continues as an occupant or tenant in the Building. (Upon execution of this Lease Sarasota County Public Hospital Board or its Affiliates occupy suites 201, 307, 605, and 802 containing approximately 18,036 square feet of rentable space which are used for medical office use under a space lease(s). If Sarasota County Public Hospital Board or its Affiliates change their usage of such space, the change shall not be considered when determining if Tenant has exceeded the maximum limitation on commercial space.)

B. Restrictions Related to MOB Component.

(i) Unless otherwise approved in advance in writing by Landlord (which approval may be given or withheld in Landlord’s sole, absolute discretion) or as otherwise set forth below, the MOB Component shall be utilized only (a) by “Qualified Physicians” (as defined below), and their associated support and office staff, for “Permitted Medical Office Uses” (as defined below), (b) for “Specified Ancillary Uses”(as defined below) but only in the event SMH ceases to provide such Specified Ancillary Use as set forth in subsection 8.2B(iv) below, or (c) with respect to up to 16,000 square feet of the MOB Component, for “Specified Permitted Uses” (as defined below).

(ii) “**Qualified Physicians**” shall mean any Medical Professional (as defined below) licensed to practice independently and maintaining membership on the medical staff of, or otherwise holding privileges at, the Hospital (or qualified for and in the application process for such membership or privileges), with appropriate diagnostic or therapeutic privileges, and any Medical Professional who is a member of the same medical practice as a Qualified Physician who is covering for such Qualified Physician on a temporary basis. “**Medical Professional**” shall mean any medical professional licensed in the State of Florida, including, without limitation, physician, dentist, podiatrist, or clinical psychologist. To the extent a Medical Professional involuntarily loses his or her status as a Qualified Physician during the term of a Sublease, such Medical Professional shall continue to be deemed a Qualified Physician for the remaining term of such lease and for no more than one five year extension (provided such extension is previously set forth in the lease prior to such Medical Professional losing his/her status as a Qualified Physician). “**Permitted Medical Office Uses**” shall mean uses that are usually and customarily done in a particular type of physician practice in the present or future for that physician’s patients or those referred to that physician or his or her practice, but only to the extent such uses do not constitute “Specified Ancillary Uses.”

(iii) “**Specified Permitted Uses**” shall mean the practice of dermatological medicine, the practice of dentistry, including oral surgery, and the practice of plastic surgery.

(iv) “**Specified Ancillary Uses**” shall mean (a) free standing retail laboratory, (b) free standing facility providing plain film x-ray services, (c) free standing diagnostic imaging center, (d) free standing outpatient endoscopy center, (e) free standing urgent care center, or (f) free standing outpatient surgery center. For purposes of this Section, “free standing” shall mean such services are

provided not as part of a physician medical practice, but instead are provided either by Qualified Physicians collectively leasing space as a group of independent practices or otherwise by a third party operator. A free standing retail laboratory shall only be permitted in the event the Hospital or its Affiliate ceases to maintain and operate a retail laboratory in the Building; free standing facility providing plain film x-ray services shall only be permitted in the event the Hospital or its Affiliate ceases to provide plain film x-ray services in the Building; a free standing diagnostic imaging center shall only be permitted in the event the Hospital or its Affiliate ceases to provide diagnostic imaging services on the Hospital Campus; a free standing endoscopy center shall only be permitted in the event the Hospital or its Affiliate ceases to provide outpatient endoscopy services on the Hospital Campus; a free standing urgent care center shall only be permitted in the event the Hospital or its Affiliate ceases to provide urgent care services on the Hospital Campus; and a free standing surgery center shall only be permitted in the event the Hospital or its Affiliate ceases to maintain and operate an outpatient surgery center on the Hospital Campus.

C. Restrictions Related to Commercial Component. Unless otherwise approved in advance in writing by Landlord (which approval may be given or withheld in Landlord's sole, absolute discretion), the following uses are prohibited for the Commercial Component:

- (i) Theater.
- (ii) Bowling Alley.
- (iii) Billiard Parlor.
- (iv) Night Club.
- (v) Any business selling or serving alcoholic beverages for on-premises consumption other than as incidental to its primary business of serving prepared food for on-premises consumption.
- (vi) Discotheque.
- (vii) Off track betting parlors.
- (viii) Dance hall.
- (ix) Massage Parlor.
- (x) Adult book store / adult video store.
- (xi) Head shop.
- (xii) Automotive / vehicle sales or leasing.
- (xiii) Video game room / arcade.
- (xiv) Any store featuring "second-hand", used or re-built merchandise.
- (xv) Pawn Shop.
- (xvi) Flea Market.
- (xvii) Swap meet.
- (xviii) Health club, exercise, racquet club, spa, gymnasium or other sports, recreational or entertainment facility.
- (xix) Beauty school or other place of instruction catering primarily to students as opposed to customers.
- (xx) Any store featuring "close-out" merchandise or "bulk" merchandise such as, by way of example only, "Big Lots", "Odd Lots", etc.
- (xxi) Antique Store.
- (xxii) Any store featuring "collectibles" or "tradable".
- (xxiii) Bingo Parlor.
- (xxiv) Funeral Home.
- (xxv) Carnival, amusement park, circus or entertainment facility.
- (xxvi) Skating Rink.
- (xxvii) Premises operating games of chance (other than selling lottery tickets).
- (xxviii) Assisted living facility.
- (xxix) Warehouse.
- (xxx) Manufacturing.
- (xxxii) Recycling facility.

(xxxii) House of Worship.

To the extent the commercial component is utilized for any medical use including Medical Office Uses, such shall be consistent with the restrictions related to the MOB Component set forth above.

D. Unleased Space. Notwithstanding anything in this Lease to the contrary, if (i) Tenant is unable to lease 15% or more of the MOB Component for Qualified Physicians use (the "Unleased Space"), and (ii) Tenant, in good faith, exercised commercially reasonable efforts to lease the Unleased Space to Qualified Physicians use, then Tenant shall be permitted to offer such space for short term leases (no longer than eleven (11) years without any options to renew beyond such eleven (11) years) for use by physicians that do not meet the Qualified Physician requirements or who would otherwise violate the square footage restrictions related to dermatology, dentistry, and plastic surgery.

E. Termination of Use Restrictions. The provisions of **Section 8.2** shall cease to apply (i) if the Hospital ceases to operate as an acute care hospital with at least two hundred (200) licensed beds then currently being utilized for a period of thirty (30) days unless such closure is due to fire, casualty or other cause beyond the control of the Hospital in which case such thirty (30) days should be extended for such period of time as the Hospital is in good faith proceeding with reopening to meet the foregoing standard, such period not to exceed three (3) years, (ii) upon the foreclosure of any mortgage granted by Landlord encumbering Landlord's Estate or the Hospital, or (iii) the termination, or assignment in lieu of termination, of any financing ground lease of Landlord's Estate or the Hospital or any lease by Landlord of Landlord's Estate or the Hospital as part of a sale-leaseback transaction entered into by Landlord in which Landlord is the lessee, the result of which the lessor or its designee succeeds the Landlord's interest in Landlord's Estate or the Hospital, as the case may be.



**Exhibit C**  
To Memorandum of Lease  
Article 25 from the Lease

(A) Landlord has agreed to and is bound by a covenant for the benefit of Benderson Properties, Inc. and the Kaufman Family Partnership #2, Ltd. (collectively, the "**Developer**"), and accordingly, this Lease and Tenant's rights hereunder, shall be subject to the restrictions set forth in this Article 25. If Tenant causes or permits the Building to be submitted to condominium ownership or another form of equity ownership by the occupants thereof (an "**Equity Structure**"), the restrictions set forth below in this Article 25 shall apply until the earliest of (i) October 15, 2012, (ii) until the closing by the Developer of the sale of eighty percent (80%) of the condominium units within the buildings constructed by Developer on the Hillview Parcel and the Doctor's Gardens Parcel, or (iii) termination of the ground leases between the Developer and Landlord (the "**Restriction Period**"). During the Restriction Period, neither the Landlord nor Tenant will allow or permit anyone other than the "Permitted Equity Owners" (hereinafter defined) to own an equity interest in an Equity Structure or have an option or similar right to obtain such equity interests, without the prior written consent of the Developer.

(B) "**Permitted Equity Owners**" shall consist of (i) Tenant, (ii) the tenants of the Building listed on **Exhibit "G"** attached hereto (the "**Current Tenants**"), (iii) the owners, principals and employees of Davis Marcus Partners, Inc. and its affiliated entities, any family member of any such persons, and any trust, partnership or other entity established by any such persons for bona fide estate planning purposes, and (iv) the owners or principals of, the Current Tenants, and their affiliated entities, any family member of any such persons, and any trust, partnership or other entity established by any such persons for bona fide estate planning purposes, and (v) new Qualified Physicians joining or acquiring the ongoing practice of any Current Tenant in compliance with the terms of subsection (D) below ("**NQP**"), any family member of any such NQP, and any trust, partnership or other entity established by any such NQP for bona fide estate planning purposes. Notwithstanding the foregoing, Landlord and Tenant acknowledge and agree that an equity interest in the Equity Structure may not be acquired by any sublessee of space in the Building, or any physician practicing in the Building, regardless of whether said sublessee or physician is a Permitted Equity Owner pursuant to the definition contained in this Subsection (B), unless that sublessee or physician is a Current Tenant or an NQP.

(C) Notwithstanding anything in this **Article 25** to the contrary, the restrictions set forth herein shall not apply to (i) one or more equity ownership associated with a single sublease of up to 16,000 square feet of the Building, or multiple subleases not to exceed 16,000 of the Building in the aggregate (the "**Pool**") (ii) any sale of the entire Building, (iii) any sale of all or substantially all of the assets of Tenant, (iv) any assignment of this Lease, sale of the Improvements or sublease of the Premises, in whole or in part, to any entity into or with which Tenant may be merged or consolidated or to any entity which shall be an affiliate, subsidiary, parent or successor of Tenant, or any entity into or with which Tenant may be merged or consolidated, or to a partnership of which Tenant is a partner, (v) any transaction permitted under the "buy-sell" provisions under the Governing Documents that provide for sales of equitable interests between the holders of ownership interests in the Tenant entity or in the governing documents of its constituent entities, (vi) Subleases, with no right or option to obtain an Equity Interest, entered into pursuant to **Article 16**, (vii) any mortgage or leasehold financing by Tenant, or any purchaser at any foreclosure of such mortgage or assignee upon termination of such leasehold financing, or (viii) any conveyance or assignment of all or a portion of the equity interest in the Tenant to a non-affiliated financial partner or backer, provided said financial partner or backer shall not thereby be permitted to both sublease space in the Building and acquire and equity interest in the Equity Structure; provided that with respect to any of the permissible transfers described in the foregoing subsections 25(C)(i) – (viii), the transferee shall accept its interest in the Tenant, Building and/or the Lease subject to the restrictions set forth in this Article 25, which restrictions shall run with the land; and provided further that with respect to any of the permissible transfers described in the foregoing subsections 25(C)(ii) through (vi) and (viii), no such transfer shall result in the ownership of an equity interest in an Equity Structure by any sublessee of the building, or any physician practicing in the Building, unless that sublessee or physician is a Current

Tenant or an NQP The foregoing restriction shall be incorporated into the Memorandum of Lease to be executed pursuant to **Section 2.2**.

D. The following limitations shall apply to any NQP acquiring or joining the practice of any Current Physician: (1) the portion of the Equity Structure that may be acquired by any NQP shall be limited to the equity interest then held by the Current Tenant whose practice the NQP is joining or acquiring; (2) If at any time during the Restriction Period, any Current Tenant does both of the following in any order: (i) expands its equity interest in the Equity Structure beyond the proportionate share of the Equity Structure that is equivalent to its proportionate share of the space in the building leased by said Current Tenant as of the effective date of this Lease, and (ii) allows an NQP to join its practice and acquire an equity interest; then the equity interest acquired by the NQP shall be deducted from the Pool. In the event there is no available equity interest in the Pool, either the NQP will not be permitted to acquire and equity interest in the Equity Structure or the Current Tenant will not be permitted to expand its equity interest in the Equity Structure.

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