



200603140128

Skagit County Auditor

3/14/2006 Page 1 of 28 2:51PM

When Recorded Return To:

Donald W. Black  
OGDEN MURPHY WALLACE, P.L.L.C.  
1601 Fifth Avenue, Suite 2100  
Seattle, Washington 98101-1686

CHICAGO TITLE IC31157

**AMENDED AND RESTATED GROUND LEASE**

Reference Number(s)  
of Related Documents:

798039, 802693, 8907210082

Additional Reference #s on page: N/A

Grantor (Last, First, M.I.):

SKAGIT COUNTY PUBLIC HOSPITAL DISTRICT NO. 2 (d/b/a  
Island Hospital), a Washington state public hospital district

Additional Grantors on page: N/A

Grantee (Last, First, M.I.):

SKAGIT COUNTY PUBLIC HOSPITAL DISTRICT NO. 2 (d/b/a  
Island Hospital), a Washington state public hospital district,  
CHALLENGE DEVELOPMENTS II, L.L.C., a Washington state  
limited liability company, ISLAND MEDICAL CENTER  
CONDOMINIUM ASSOCIATION, a Washington state non-profit  
corporation

Additional Grantees on page: N/A

Legal Description (abbreviated): Ptn. E1/2 SE 1/4 Sec. 24-35N-01E

Additional Legal on page: 28

Assessor's Tax

Account Number:

350124-0-139-0103

SKAGIT COUNTY WASHINGTON  
REAL ESTATE EXCISE TAX

MAR 14 2006

By  Deputy

**AMENDED AND RESTATED  
GROUND LEASE**

THIS AMENDED AND RESTATED GROUND LEASE ("Lease") is entered into, as of March 13, 2006 (the "Effective Date"), by and between SKAGIT COUNTY PUBLIC HOSPITAL DISTRICT NO. 2 (d/b/a ISLAND HOSPITAL), a Washington State public hospital district ("IH"), as fee owner of the Land only and as lessor of that Land ("Landlord"), and IH and CHALLENGE DEVELOPMENTS II, L.L.C., a Washington State limited liability company ("CD"), as tenants in common and as future owners of condominium units in the to be created Island Medical Center Condominium (as herein more fully described, the "Condominium"), and, following formation of the Condominium, ISLAND MEDICAL CENTER CONDOMINIUM ASSOCIATION, a Washington State non-profit corporation ("Condo Assn."), as sole representative and agent of IH and CD, in their capacities as owners of condominium units in the Condominium (IH and CD, and Condo Assn. as their sole representative, shall be collectively referred to herein as "Tenant").

**RECITALS**

WHEREAS, as of the Effective Date, this Lease will amend, restate and shall replace that certain GROUND LEASE, dated July 11, 1973, by and between Landlord (formerly known as Skagit County Hospital District #2 (Island Hospital)), as fee owner of the Land (subject to matters of record as of the Effective Date of this Lease) and as lessor of that Land, and Island Medical Dental Center, a Washington State general partnership (formerly known as Anacortes Medical-Dental Center), as tenant ("Original Tenant"), which was recorded under Skagit County Auditor's File Number 798039, as amended by the First Amendment to Ground Lease, dated June 11, 1974, recorded under Skagit County Auditor's File Number 802693, and by the Second Amendment to Ground Lease, dated July 11, 1989, recorded under Skagit County Auditor's File Number 8907210082 (collectively, with all amendments, the "Original Ground Lease"), concerning the real property described in Exhibit A, which is attached hereto and incorporated herein by this reference (the "Land"); and

WHEREAS, IH and CD, as tenants in common, have purchased all improvements presently located on the Land ("IMC Building") and all rights of the Original Tenant under the Original Ground Lease and will, as declarants, file the appropriate declaration and create the Condominium and will transfer and assign all of their rights and interests in the IMC Building, the Original Ground Lease and in this Lease to IH and CD in their capacities as owners of condominium units ("Condo Units") in the Condominium (the Land, IMC Building and all improvements and appurtenances which may be constructed on the Land or added in the future are collectively referred to herein as the "Premises"); and

WHEREAS, in connection with creation of the Condominium, the Condo Assn. will be formed to manage and control the occupancy and use of the Premises and will become the sole



representative and agent of IH and CD, as owners of Condo Units and as tenants under this Lease, and will, upon the formation of the Condominium and of the Condo Assn., be responsible to take all actions, satisfy all obligations and enforce all rights of Tenant hereunder; and

WHEREAS, Landlord, IH and CD have agreed that the Original Ground Lease should be amended and restated in accordance with the terms set forth in this Lease, effective upon the Effective Date.

NOW THEREFORE, in consideration of the mutual covenants set forth herein, Landlord and Tenant hereby agree to the following terms and conditions:

### AGREEMENT

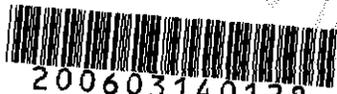
1. SUBSTITUTION AND REPLACEMENT OF ORIGINAL GROUND LEASE.

The foregoing Recitals shall become a part of and are incorporated into this Lease by this reference. Upon the Effective Date, this Lease shall be substituted for and shall replace the Original Ground Lease in all respects. Thereafter, the Original Ground Lease shall have no force or effect.

1A. IMC BUILDING OWNED IN FEE. Subject to the Landlord's right to ownership of the IMC Building, and all other improvements located upon the Land, upon the expiration or the earlier termination of the Term of this Lease as set forth in Sub-section 12(d) of this Lease, the IMC Building and any future improvements constructed on the Land by Tenant shall be owned in fee, separate from the Land, by IH and CD, initially as tenants in common and, upon creation of the Condominium, as the owners of the Condo Units, and their permitted successors and assigns. The IMC Building and all other improvements located on the Land shall remain real property.

2. GRANT AND ACCEPTANCE OF LEASE.

(a). Grant of Lease. In consideration of and subject to the covenants, terms and conditions set forth in this Lease, but subject to matters of record as of the Effective Date of this Lease and subject to the reservation of easements as set forth in Sub-section 2.(c) hereof, Landlord hereby agrees to lease to Tenant, and Tenant hereby agrees to lease from Landlord the Land described in Exhibit A, attached to this Lease and incorporated herein by this reference. There shall be no merger of IH's rights as Landlord hereunder and IH's interests as one of the co-tenants under this Lease; IH's rights and obligations in each such position shall remain separate and independent. As provided in Sub-section 12.(d) hereof, upon termination of the right of possession of the Land granted to Tenant by this Lease, whether upon expiration of the Term or earlier termination as provided herein, the Premises shall immediately become the sole property of Landlord, without notice, cost or fee, and Tenant shall have no further right, title or interest therein.



(b). Acceptance of Premises; AS-IS. Tenant has inspected the Premises, including the IMC Building, and accepts the same in their present condition (as of the Effective Date), AS-IS, WHERE-IS, with all faults and without any representations or warranties by Landlord concerning the condition of the Premises, compliance with any law or regulation concerning the Premises, or fitness of the Premises for their present use or any future use intended by Tenant. Tenant hereby releases, and agrees to indemnify, hold harmless and defend, Landlord from any claim concerning the Premises which may arise on or after the Effective Date and during the Term of this Lease, whether known or unknown, which may arise from or to the extent it is related to the condition, compliance with laws or fitness of the Premises. Notwithstanding the foregoing, Tenant shall not indemnify Landlord against any claim related to the condition of the Land (excluding the IMC Building) as it existed prior to the Effective Date, or a claim concerning the condition of the Premises to the extent it may be caused by the act or negligence of the Landlord (or of IH as a co-Tenant) after the Effective Date.

(c). Reservation of Easements. The grant of lease set forth in Sub-section 2.(a) hereof, shall be subject to matters of record as of the Effective Date of this Lease and to reservation of certain rights of access and easements affecting the Land, as set forth in a separate Reciprocal Easement Agreement to be executed by and between Landlord and Tenant as of the Effective Date.

(d). Limitations of Liability/Indemnification by Responsible Co-Tenant.

(i). Unless arising from the sole act or omission of either such co-tenant, IH and CD, as Tenant under this Lease, shall be liable to Landlord for only that percentage portion of any Tenant obligation or claim against Tenant arising under or related to this Lease which equals the percentage ownership interest IH or CD respectively have in the common elements of the Premises as set forth under the condominium declaration (including any future amendments thereto) related to the Premises (e.g., if IH will own 40% of the common elements of the Premises, as allocated in accordance with the condominium declaration and related agreements, IH would only be individually liable for 40% of any obligation owed by Tenant pursuant to this Lease).

(ii). Any obligation of Tenant arising under this Lease which results from the sole act or omission of either co-tenant, IH or CD, their officers, employees, agents, contractors, subtenants (including subtenants' employees, agents, contractors, guests and invitees), guests, invitees, assignees or successors, shall be one-hundred percent (100%) satisfied by that party ("Responsible Party"), and the Responsible Party shall indemnify and hold the other co-tenant and the Condo Assn. harmless from any claim, damage, cost or expense arising from that act or omission, including any attorneys fees or court costs incurred in defense of the same. For the purposes of this indemnity, the Responsible Party waives any rights to immunity from claims provided in Washington State's worker's compensation act.

3. TERM. The duration of the right to possession of the Land granted by this Lease shall be from commencement of the Original Ground Lease, July 11, 1973, and continuing



thereafter until May 31, 2057 (the "Term"), unless sooner terminated pursuant to the terms of this Lease. Tenant shall have no right to renew or extend the Term without the prior written consent of Landlord, which shall be subject to Landlord's sole and absolute discretion and subject to such different or additional terms and conditions as Landlord, in its sole discretion, may require. If Landlord permits Tenant to remain in possession of the Premises after expiration or termination of the Term, such possession shall be on a month-to-month basis, terminable at any time by Landlord upon thirty (30) days prior written notice, and subject to all terms and conditions of this Lease, except for Base Rent which shall be equal to one hundred fifty percent (150%) of the Base Rent in effect at the time of Lease termination or expiration and such other fees and costs as Landlord may require; provided that no notice shall be required of the scheduled expiration of the Term as set forth herein.

4. RENT.

(a). Base Rent. The Base Rent which Tenant agrees to pay to Landlord, and which Landlord agrees to accept from Tenant is the sum of \$500.00 per month, to be paid in advance on the tenth (10th) day of each month of the Term, beginning upon the Effective Date of this Lease (pro-rated, as required), and paid on the tenth (10th) day of each month thereafter. The Base Rent and all other taxes, costs, fees and charges payable by Tenant pursuant to the terms of this Lease shall be collectively referred to herein as "Rent".

(b). CPI Rental Adjustment.

(i). Adjustments Every Year. The monthly rental amount shall be adjusted annually as of the first day of each calendar year of this Lease, or any extended term thereof, to compensate for the effect of inflation on the rental, provided however, no adjusted rental shall be less than the rental being adjusted. The effective date of any such change in rental is called the "Change Date". The adjusted rental shall be determined in accordance with the formula set forth below. In applying the formula, the definitions hereinafter set forth apply.

(ii). Definitions.

a. "Bureau" means the U. S. Department of Labor Bureau of Labor Statistics or any successor agency that shall issue the indices or data referenced in the succeeding section entitled "Formula".

b. "Change Date" herein shall initially be the Effective Date of this Lease, and thereafter the first day of each calendar year during the Term of this Lease, or any agreed extension thereof.

c. "Price index" means the Seattle-Tacoma-Bremerton Consumer Price Index – All Urban Consumers (commonly referred to as Seattle CPI-U Index) issued from time to time by the Bureau, or any other measure hereafter employed by the Bureau in lieu of the price index that measures the cost of living in the Seattle area.



or if said Bureau should cease to issue such indices and any other agency of the United States should perform substantially the same function, then the indices issued by such other agency.

(iii). Formula. The monthly rental rate being adjusted shall be multiplied by a multiplier equal to the change in the Price Index computed as follows: (Rental being adjusted) x (Price Index for the month of the subject Change Date, divided by the Price Index for the month of the most recent prior Change Date).

An example of the use of the above described formula is as follows:

To readjust a past rental dollar value into present-day dollars, multiply the past rental dollar value by the ratio of the present CPI to the past year CPI. For example, assume you want to know what \$500.00 in rent in 1993 would be worth in 2003, based on Seattle area inflation:

1/1/1993 dollar value	\$500
1/1/1993 Seattle CPI-U index	142.0
1/1/2003 Seattle CPI-U index	192.3
Computation	$\$500.00 (192.3/142.0) = \$672.85$

5. TAXES, UTILITIES AND OTHER CHARGES AND ASSESSMENTS.

(a). Tenant covenants and agrees to pay, before any fine, penalty, interest or cost may be added thereto or become due or be imposed by operation of law for the non-payment thereof, all real and personal property taxes, assessments, water and sewer charges, development fees, user fees and charges, transit taxes, charges for other public utilities, excises, levies, licenses, permit fees and other governmental charges, general and special, ordinary and extraordinary, foreseen or un-foreseen, of any kind and nature whatsoever, which, at any time during the Term of this Lease may be assessed, levied, confirmed, imposed upon, or accrue or become due and payable out of, or in respect of, or become a lien on, the Premises, or any part thereof of and appurtenance thereto, the rent and income received by Tenant from sub-tenants, any use or occupation of the Premises, and such franchises as may be appurtenant to the use of the Premises, or any other lease to which the Tenant is a party related to the use or occupancy of the Premises.

(b). If requested by Landlord, Tenant shall deliver copies of all tax and utility statements and proof of payment thereof to Landlord, and, as to taxes, shall deliver proof of payment at least thirty (30) days before the same shall become delinquent in accordance with applicable law or regulation. Such reports will not be required so long as IH is a Condo Unit owner and a co-tenant under this Lease. Tenant may contest any such taxes or charges, and not be in default hereunder, if Tenant shall give Landlord written notice of such contest and furnish Landlord, prior to the time such taxes or charges may become delinquent, a surety bond in form and by a company determined to be acceptable by Landlord or cash, to be held by Landlord in



trust, conditioned upon the payment of the tax or charge, the amount of such bond or cash to be at least one and one-half times the amount of taxes or charges being contested.

(c). If Tenant fails, refuse or neglects to make any of the payments required by this Section 5 as and when the same may become due, then the Landlord may, but shall not be required to, pay the same and the amount so paid, including reasonable attorneys fees and expenses which may be incurred because of such breach of Tenant's obligations hereunder, together with interest on all such amounts at twelve percent per annum (12%) from the date such amounts were paid or incurred by Landlord, shall be paid by the Tenant to the Landlord, upon demand, and shall be deemed to be additional Rent. Any such payment by Landlord shall not waive or cure the default by Tenant.

6. MECHANIC'S, MATERIALMAN'S OR OTHER LIENS.

(a). Tenant shall have no power or authority to subject Landlord's interest in the Land related thereto to any mechanic's, materialman's or other lien or encumbrance, whether voluntary or involuntary, of any kind. Notwithstanding the foregoing, Tenant may have a reasonable time to obtain the release of any involuntary lien or encumbrance, including the right to contest the same, so long as the lien is satisfied or released at least thirty (30) days prior to foreclosure.

(b). Except for encumbrances specifically permitted in accordance with Section 16 of this Lease, Tenant covenants and agrees that it will not permit or suffer any lien, encumbrance or claim of any kind to be filed or claimed against the Premises, and if any such lien, encumbrance or claim is filed, Tenant shall satisfy, post a bond if reasonably requested by Landlord during any action to contest the imposition of an involuntary lien or encumbrance, or otherwise obtain the release of the Premises from the same, at least thirty (30) days prior to foreclosure. In the event Tenant fails to meet the foregoing obligation, Tenant shall be in default of this Lease and Landlord shall have the right, but not the obligation, to satisfy or otherwise obtain the release of such lien, encumbrance or claim, and Tenant shall be required to reimburse Landlord, upon demand, for all amounts so paid and for all costs and fees, including attorneys fees, which Landlord may incur in defense of the same or in effecting such satisfaction or release, plus interest at 12% per annum on such amounts from the time expended by Landlord; provided, that satisfaction or obtainment of such release of lien, encumbrance or claim by Landlord shall not cure Tenant's default of this obligation, and Landlord shall retain the right to declare this Lease to be terminated because of such default, in accordance with the terms of this Lease.

7. INDEMNIFICATION OF LANDLORD AGAINST LIABILITY. Landlord shall not be liable to Tenant or Tenant's employees, agents, contractors, subtenants, guests or invitees (including subtenants' employees, agents, contractors, guests and invitees) or to any person whomsoever, for any injury to person or damage to property occurring on or about the Premises, except to the extent caused by the gross negligence or intentional misconduct of Landlord. Tenant agrees to indemnify, defend and hold Landlord (including Landlord's officers,



commissioners, employees, agents or contractors) harmless from any loss, claim, damage cost or expense, including attorneys fees in defense of the same, suffered or incurred by Landlord by reason of any of the aforesaid claims for damage or injury. For the purposes of this indemnity, Tenant waives any rights to immunity from claims provided in Washington State's worker's compensation act. Notwithstanding the foregoing, Tenant shall have no obligation to indemnify or hold Landlord harmless from any claims or damages to the extent they arise from the actions or negligence of IH as an owner of a Condo Unit or co-tenant under this Lease or of IH's employees, agents or contractors.

8. INSURANCE.

(a). Property Insurance. Tenant shall procure and at all times during the Term hereof maintain property insurance against loss or damage by fire and other casualties in an amount not less than the replacement value thereof. The insurance policy shall name the Landlord as an additional insured and provide for payment of the proceeds jointly to Tenant and Landlord, with the Tenant entitled to use such proceeds only for the repair or replacement of the damaged portions of the Premises. The property insurance policy shall provide for reduction or cancellation only upon not less than thirty (30) days prior written notice to Landlord.

(b). Liability Insurance. Tenant shall also procure and at all times during the Term hereof maintain commercial general liability insurance which insures against property damage and public liability arising by reason of occurrences on or about the Premises in the amount of not less than \$1,000,000 in respect of loss or damage to property, in the amount of not less than \$1,000,000 in respect of injury to or death of any one person, and in the amount of not less than \$1,000,000 in respect of any one accident or occurrence. The insurance policy shall name the Landlord as an additional insured and provide for reduction or cancellation only upon not less than thirty (30) days prior written notice to Landlord.

(c). General Insurance Requirements. All insurance policies required to be maintained by Tenant hereunder shall be with responsible insurance companies, reasonably acceptable to Landlord, authorized to do business in the State of Washington. Tenant shall evidence such insurance coverage by delivering to Landlord, on request, certificates issued by the insurance companies underwriting such risks or their agency. In the event Tenant fails to procure and maintain the insurance required by this Lease or to pay any required premiums when due, Landlord shall have the right, but not the obligation, to procure and/or maintain such insurance and pay the costs of procuring the same or any premiums due therefore and to demand immediate reimbursement of those payments and of all related costs incurred by Landlord from Tenant, plus interest on that amount at 12% percent per annum until paid in full; provided, that procurement of insurance and payment by Landlord of such premiums and costs shall not cure Tenant's default of this obligation, and Landlord shall retain the right to declare this Lease to be terminated because of such default, in accordance with the terms of this Lease.

9. PERMITTED USES AND LIMITATIONS. Except as otherwise specifically provided herein or approved in writing by IH, the IMC Building and related improvements, as



they exist upon the Effective Date of this Lease, shall be the only structures or improvements permitted on the Land. During the Term of this Lease and except as approved in writing by IH, the Premises shall only be used for offices for licensed physicians or Mid-level Providers to engage in the private practice of medicine and other activities incidental thereto, and for no other purpose. "Mid-level Providers" shall be defined as: Midwives, licensed under RCW 18.50; Physician Assistants, licensed under RCW 18.71A, and: Advanced Registered Nurse Practitioners, licensed under RCW 18.70.

Any physician or Mid-level Provider who maintains an office in the Premises and conducts a medical practice therefrom shall be required to obtain and maintain medical staff privileges (active, courtesy, temporary, or associate, as appropriate) at IH; provided, however, that a Mid-level Provider shall not be required to maintain medical staff privileges if such Mid-level Provider (i) is of a type not normally credentialed by IH, or (ii) does not maintain medical staff privileges at any other similar facility.

Unless otherwise agreed in writing by IH, Tenant shall not use, or permit the use of the Premises for any of the following:

- (i) Diagnostic imaging services or equipment;
- (ii) Laboratory facilities or use by registered or licensed laboratory technicians;
- (iii) Ambulatory surgery services or facilities; or
- (iv) Physical therapy, occupational therapy, or speech therapy.

Notwithstanding anything contained herein, nothing in this Section 9 shall limit the use of any of the Premises owned or leased by IH, which may be used as IH shall determine, in its absolute discretion. And provided further, that the following exceptions to the restrictions on use set forth in this Section 9 are specifically approved by IH: (i) CD's subtenant, Fidalgo Medical Associates, PLLC ("FMA"), may provide diagnostic ultrasound services and cosmetic laser surgery procedures solely to patients of FMA or FMA's employed or owner physicians; (ii) CD's subtenant, Northwest Urology Clinic ("NWU"), may provide bladder ultrasounds solely to patients of NWU or NWU's employed or owner physicians; (iii) Island Eye Surgeons & Physicians, Inc. ("Eye Surgeons") may provide ophthalmic diagnostic imaging services and may operate an optical shop; and (iv) Skidmore Pharmacy, Inc. may operate the retail pharmacy as it exists on the Effective Date.

#### 10. ASSIGNMENT OR SUBLETTING.

(a). Assignment. Except as permitted herein and in Section 16 of this Lease, no rights granted Tenant in this Lease, or any portion thereof, is transferable or assignable by Tenant or any Condo Unit owner directly, indirectly or by operation of law, and no grant of any easement, license, or interest of any kind affecting any portion of the Premises shall be permitted, without the express prior written consent of Landlord, which consent shall not be unreasonably withheld or delayed. Any such purported transfer, assignment, grant of easement, license or interest without the Landlord's prior written consent shall be null and void and shall



constitute a default under this Lease. In its sole discretion, Landlord may condition any permitted assignment upon payment of such fees, costs or expenses of Landlord (including attorneys fees) as Landlord may require, and such other conditions, including amendments to this Lease as Landlord may impose. For purposes of this Lease, assignments or other transfers which are restricted hereunder include any sale, transfer, assignment or other change to more than fifty per cent (50%) or more of the equity or ownership interests in Tenant or in any Condo Unit owner (except for transfers or assignments to or among present owners of such equity interests), any merger of Tenant or any Condo Unit owner with or into any other legal entity not owned by the same equity owners, or any other voluntary or involuntary change in the majority ownership or control of the Tenant or Condo Unit owner (except among the existing equity owners of Tenant or that Condo Unit owner) or of any portion of the Tenant's or Condo Unit owner's rights, title or interest in this Lease or in the Premises. No assignment which may be permitted hereunder shall relieve the Tenant, including each Condo Unit owners, from liability of any of its obligations set forth in this Lease. Notwithstanding the foregoing, owners of Condo Units in the Premises are not hereby restricted from selling or assigning their individual interests in their respective Condo Units, along with their rights and interests under this Lease (as part of the sale or assignment of their rights in those Condo Units), except as they may otherwise individually agree, provided the owners of Condo Units within the Premises, and each of their successors, assigns and sublessees shall be subject to all other terms and conditions of this Lease.

(b). Subletting. Tenant may not sublease or permit the lease or sublease of any portion of the Premises, including any portions of Condo Units within the Premises, except upon the prior written consent of Landlord, which consent shall not be unreasonably delayed or denied; provided, however, all such subleases shall be consistent with and subject to and incorporating therein all the terms and conditions of this Lease. All waivers, revisions, amendments, sub-subleases, renewals or extensions of any terms or portions of such leases or subleases shall also require the prior written consent of Landlord, which consent shall not be unreasonably delayed or denied. Any purported lease, sublease, or revision or amendment thereto, which has not been consented to by the Landlord shall be null and void and constitute a default under this Lease. Notwithstanding any of the foregoing, Landlord shall not be required to consent to any proposed lease or sublease which: (i) would violate the use or limitations on use of the Premises set forth in this Lease; (ii) would be contrary to the then present or planned business interests of the Landlord, as Landlord shall determine in its reasonable discretion; or (iii) would be upon rent or other terms which Landlord determines to not be commercially reasonable. Any lease or sublease shall also immediately terminate, at the sole option of Landlord, upon expiration or earlier termination of this Lease. Landlord shall not be liable to any subtenant, or proposed subtenant, of Tenant because Landlord has approved or not approved any lease, sublease, or revision or amendment thereof, or because such lease or sublease may terminate upon termination of this Lease.

(c). Binding Upon Condominium Owners and Their Tenants. All terms and conditions of this Lease, including any future amendments hereof, shall be binding upon the owners, tenants, subtenants, and any other holders of interests in or rights to occupy any portions of any Condo Unit or common elements which may exist from time to time in the Premises,



including any permitted future additions to the Premises. Tenant shall execute such documents and shall take any other actions which Landlord may require, in Landlord's sole discretion, to give effect to the foregoing provision.

11. CONDEMNATION. In the event of the taking or condemnation by any competent authority of the whole or any material portion of the Premises at any time during the Term, Landlord and Tenant shall each receive the value of their respective interests in the Premises so affected, and attorney's fees and other costs to the extent incurred and awarded. The values of the Landlord's and Tenant's respective interests in the Premises so affected shall be established by the same court of law or other trier of fact which establishes the amount of the condemnation award, but if there is no such court, those interests shall be determined by arbitration pursuant to Sub-section 20.(m) hereof. In the event all or substantially all of the Premises are so taken or condemned, then this Lease shall be terminated upon the effective date of such taking. In the event of a partial taking or condemnation, this Lease shall be modified accordingly and the Tenant shall take all proceeds received from the condemning authority (after payment to Landlord of the value of its interests lost in the condemnation action) and, subject to Landlord's approval of such construction in accordance with Section 12 of this Lease, repair and/or restore the Premises to the extent practical (with the Tenant to furnish such additional funds as required to complete such repair or restoration) to at least the condition the Premises were in prior to such taking. Landlord agrees that, so long as this Lease remains in effect, it will not condemn any portion of the Premises.

12. ALTERATIONS, ADDITIONS OR IMPROVEMENTS.

(a). Material Alterations, Additions or Improvements. Except for proposed sub-tenant improvements approved by Landlord as a part of sub-lease approval in accordance with Sub-section 10.b. of this Lease, no material alterations (costing \$25,000 or more), additions or other improvements may be made or added to the Premises without the prior written approval by Landlord, which approval will not be unreasonably withheld or delayed, of: (i) the proposed plans and specifications, including all changes thereto; (ii) the construction contractor and principal sub-contractors; and (iii) the construction budget. Landlord's consent may be conditioned upon such terms as Landlord deems reasonably required including, but not limited to, the Tenant's posting of a sufficient bond, cash or other surety to insure prompt completion of all such proposed alterations, additions or improvements, assurance of sufficient available funding or financing of such projects, and restrictions upon the creation of noise, dust, debris or other adverse effects upon occupants of the Premises or adjacent buildings and property. Any additions or improvements to existing structures must be consistent with standards then generally required for new construction of similar medical office facilities in the Oak Harbor, Mt. Vernon and Anacortes, Washington, areas, utilizing the best commercial grade materials and construction methods, have a roof line which does not exceed applicable zoning or similar laws or regulations and be consistent and compatible with the architecture and appearance of the hospital and other adjacent buildings. No attachment to or connection with any of Landlord's adjacent buildings, systems or improvements shall be permitted except upon such conditions as Landlord may require and subject to Landlord's consent, which consent may be given or denied



in Landlord's absolute discretion. In no event shall such construction damage or adversely affect the Landlord's adjacent buildings or other property, or interfere with the Landlord's or its tenants' access to or quiet use and enjoyment of the same.

(b). Required Capital Replacements or Improvements Compatible With Medical Campus. Landlord and Tenant agree that any replacements, alterations or improvements as may be necessary to make the architecture or appearance of the interior or exterior of the Premises compatible with any material changes during the Term of this Lease to the structure or appearance of Landlord's hospital, or other present or future adjacent buildings on Landlord's medical campus surrounding the Premises, may be completed as and when Landlord may determine, in its sole discretion, and at the sole cost of Landlord. Tenant shall provide entrance onto the Premises and such other access as Landlord, its employees, agents or contractors, may reasonably require to plan and perform such construction.

(c). Hold Harmless and Indemnification. Tenant shall indemnify, protect, defend and hold Landlord and the Premises harmless from and against all orders, citations, claims and liabilities arising by virtue of or relating to repairs, replacements or construction of additions, alterations or improvements to the Premises and all other activities of Tenant on or with respect to the Premises. For the purpose of this indemnification, Tenant hereby waives all immunities to claims provided for in the Washington State worker's compensation laws. Landlord shall have no liabilities, obligations or responsibilities whatsoever with respect to the condition, maintenance or repair of the Premises or with respect to any plans or specifications approved by Landlord as required by this Lease. Landlord's approval of any such plans and specifications shall not render Landlord liable for any claims related thereto, and Tenant shall indemnify, defend and hold Landlord harmless from and against any and all claims arising out of or from the use of such plans and specifications by Tenant or out of Tenant's or Tenant's sub-tenants' repair, replacement, alteration, addition to, control, possession and use of the Premises.

(d). Ownership of Improvements. During the Term of this Lease, the existing IMC Building and any future improvements constructed on the Land, including without limitation all additions, alterations and improvements thereto or replacements thereof constructed by Tenant, and all appurtenant fixtures, machinery and equipment installed therein, shall be the property of Tenant or the Condo Unit owners, as their interests may appear. At the expiration or earlier termination of this Lease, all rights, titles and interests of the Tenant in and to the IMC Building, all other improvements to the Land, and all additions, alterations and improvements thereto or replacements thereof and all appurtenant fixtures, machinery and equipment installed therein shall automatically become the property of Landlord without cost or fee or need of execution by Tenant of any transfer document.

(e). Exterior Signage. No signage of any kind shall be permitted upon the exterior of the IMC Building nor shall any signage be placed anywhere upon the Land or Premises without the prior written consent of the Landlord, which consent shall be subject to the Landlord's reasonable discretion. Any signage which is permitted must be attached, constructed or erected in accordance with the Landlord's instructions and must be maintained by Tenant in a



first-class condition. Upon thirty (30) days prior written notice, Landlord may require any exterior signage be removed by Tenant and any resulting damage to the exterior of the IMC Building or Premises be repaired by Tenant to Landlord's satisfaction.

13. TENANT'S DUTY TO KEEP PREMISES IN GOOD REPAIR.

(a). General Maintenance. Throughout the Term of this Lease, Tenant shall, at Tenant's sole cost and expense, maintain the Premises and all related improvements (including landscaping, sidewalks and parking areas) in good condition and repair, so as to maintain altered, remodeled or added improvements constructed in accordance with Section 12.(a) of this Lease in that same original condition, fair wear and tear excepted, and otherwise consistent with standards applicable to similar medical office facilities of a same or similar age located in the Anacortes, Mt. Vernon and Oak Harbor, Washington areas, and in accordance with applicable laws, rules, ordinances, orders and regulations of federal, state, county, municipal and other governmental agencies and bodies having or claiming jurisdiction over the Premises.

(b). Damage by Fire or Other Casualty. If the improvements on the Premises are damaged or destroyed by fire or other casualty, Tenant shall, within ninety (90) days following the date of such damage or destruction, commence to make and diligently pursue completion of necessary alterations, repairs and/or replacements to such improvements in order to restore said improvements to the condition the same were in immediately prior to such fire or other casualty loss. All insurance proceeds payable under insurance policies maintained by Tenant by reason of the occurrence of such fire or other casualty to the Premises shall be paid to Tenant to be wholly applied to the cost of repair and restoration of the improvements thereto. If the Lease is terminated prior to completion of such repair or restoration, any unused insurance proceeds shall be paid over to the Landlord; provided however, notwithstanding the foregoing provision, if required by a Leasehold Mortgage which is permitted by this Lease, the borrower's rights to a portion of those funds, as its interests may appear, will be paid over to such Leasehold Mortgagee. If available insurance proceeds are not sufficient to pay for the completion of necessary repairs or restoration, Tenant shall nonetheless be responsible for completion of the same. Prior to commencement of such alterations, repairs or construction of replacements, Tenant shall comply with all terms of Sub-section 12.(a) hereof.

(c). No Landlord Liability. The Landlord shall have no obligation or liability for the cost of any maintenance, repair, construction or restoration required to maintain the Premises as required by this Lease. All such costs shall be borne by the Tenant; provided, however, that all material repair, construction or restoration shall be subject to the review and approval of the Landlord and otherwise be performed in accordance with the requirements of Section 12 of this Lease.

(d). No Waste or Nuisance. The Tenant shall put, keep and maintain all portions of the Premises, including landscaping, sidewalks and parking areas, in a clean and orderly condition, free of dirt, rubbish and unlawful obstruction. Tenant shall not and shall not permit any sub-tenant, licensee, employee, contractor or invitee to deposit or commit any waste



upon or within the Premises, or maintain or permit the maintenance of any offensive noise, odors or other nuisance upon or within the Premises. Tenant will insure that there is no obstruction or interference with Landlord's use and occupancy of property, and improvements located thereon, which are adjacent to the Premises.

(e). Condition Upon Termination of Lease. Upon termination of this Lease, the Tenant shall leave the Premises broom clean and in the condition required by Sub-section 13.(a). hereof, which means in good condition and repair, fair wear and tear excepted, and otherwise consistent with the standards applicable to similar medical office facilities of a same or similar age located in the Anacortes, Mount Vernon and Oak Harbor, Washington areas, and in accordance with applicable laws, rules, ordinances, orders and regulations of federal, state, county, municipal and other governmental agencies and bodies having or claiming jurisdiction over the Premises. Tenant shall be responsible for reimbursement of all costs and expenses which may be incurred by the Landlord to clean or repair the Premises and bring them into the required condition, including the cost of any replacement of Tenant's fixtures or equipment which is not repairable (but excluding any fixtures or equipment which are owned by or required to be maintained by Tenant's sub-tenants). Such costs shall be paid by Tenant on Landlord's demand and shall bear interest at 12% per annum from the date such expenses were incurred until paid in full.

14. COVENANT OF QUIET ENJOYMENT. Landlord covenants and agrees with Tenant that, so long as the Tenant keeps and performs all of the covenants and conditions to be kept and performed by the Tenant pursuant to the terms of this Lease, the Tenant shall have quiet and undisturbed possession of the Premises.

15. LANDLORD'S RIGHT OF ENTRY. Landlord, its employees, agents and contractors, shall have the right to enter upon the Premises at all reasonable times to examine the condition and use thereof, provided only that such rights shall be exercised in such manner as not to interfere with the Tenant or Tenant's sub-tenants in the conduct of their business on the Premises. In the event of casualty to the Premises or the existence of any other emergency, the Landlord may, but shall not be obligated to, after such notice to Tenant as is reasonable in the circumstances, enter upon the Premises to make emergency repairs or to take such other action which, in Landlord's reasonable determination, may be necessary; provided, any such actions by the Landlord shall not excuse the Tenant from its obligation to keep the Premises in repair and the Tenant shall, upon the demand of the Landlord, reimburse the Landlord for the cost and expense of such emergency actions, plus interest thereon at 12% per annum from the date such expenses are incurred until reimbursed in full.

16. TENANT'S RIGHT TO MORTGAGE; LIMITATIONS.

(a). No Mortgage or Subordination of Landlord's Interest. Notwithstanding any other provision of this Lease, Landlord shall not be required to join in any mortgage or other encumbrance of Tenant's leasehold and related interests in the Premises or agree to the mortgage or encumbrance of Landlord's fee interest in the Land. Landlord shall not be required to



subordinate its fee estate in the Land or its reversionary right to improvements in the Premises to any holder of a mortgage or other encumbrance of Tenant's interest in the Premises.

(b). CD's and IH's Right to Mortgage.

(i) General Authority. Subject to the terms and conditions set forth in this Lease, CD or IH, as owners of Condo Units in the Premises, their successors and assigns, may assign, mortgage or encumber their rights under this Lease, their rights in the Premises, any rents, issues or profits derived from ownership, use or operation of their Condo Units and interest in the Premises, pursuant to a mortgage, deed of trust, assignment of lease, or other similar security instrument, which meets the requirements of Sub-section 16(b)(iii) of this Lease. Any such assignment, deed of trust, mortgage or encumbrance shall be referred to herein as a "Leasehold Mortgage," and the holder of any such Leasehold Mortgage shall be referred to herein as a "Leasehold Mortgagee."

(ii) Lease Obligations of Leasehold Mortgagee or Successor. The making of a Leasehold Mortgage shall not be deemed to constitute an assignment or transfer of this Lease, nor shall any Leasehold Mortgagee, as such, be deemed to be an assignee or transferee of this Lease so as to require such Leasehold Mortgagee, as such, to assume the performance of any of the terms, covenants, or conditions on the part of the Tenant to be performed hereunder, but the purchaser at any sale of the Tenant's rights under this Lease in any proceedings for the foreclosure of any Leasehold Mortgage, or the assignee or transferee of the Tenant's rights under this Lease pursuant to any instrument of assignment or transfer in lieu of the foreclosure of any Leasehold Mortgage, or any Leasehold Mortgagee in possession after a default by Tenant under the Leasehold Mortgage, shall be deemed to be an assignee or transferee and shall be deemed to have agreed to perform all of the terms, covenants and conditions on the part of the Tenant to be performed hereunder from and after the date of such transfer, for so long as such purchaser, assignee or transferee shall be the owner of the Tenant's interest hereunder.

(iii) Landlord's Approval Required; Limitations on Leasehold Mortgages or Encumbrances. Notwithstanding any other term of this Lease, Tenant, CD, IH, or any sub-tenant of any of the foregoing, their successors or assigns, must receive the prior written consent of Landlord to the imposition of any Leasehold Mortgage or other encumbrance upon or affecting any rights in this Lease or in the Premises, which consent shall not unreasonably be withheld, provided Tenant is not in default of this Lease and such Leasehold Mortgage or encumbrance does not violate any term of this Lease. Subject to the terms of this Lease (including the prior notice requirements set forth herein) Tenant, CD, IH, any sub-tenant of the foregoing, or their successors or assigns, may grant a Leasehold Mortgage upon or affecting its rights in this Lease or in the Premises which secures a loan or loans in maximum aggregate amount which are not in excess of eighty per cent (80%) of fair market value of the Premises, or of the Condo Unit or portion thereof which is to be subjected to such encumbrance. The Tenant shall give the Landlord written notice of any proposed grant of a Leasehold Mortgage, with copies of all loan and security documents and proof (to the reasonable satisfaction of the Landlord) of the then fair market value of the Premises, Condo Unit or portion thereof which is to be encumbered, at least



thirty (30) days prior to the grant of any Leasehold Mortgage, and prior to any material amendments, restatements, re-financings or other replacements of any previously approved Leasehold Mortgage. In the event that, within fifteen (15) days after receipt of such notice and of all required information, Landlord delivers to Tenant a written objection setting out the terms of such Leasehold Mortgage which are contrary to the terms of this Lease, or if Landlord reasonably disagrees with the proof of fair market value provided by Tenant, such Leasehold Mortgage shall not be granted, nor amendment, restatement or refinancing be made effective, unless or until Tenant gives Landlord reasonable evidence that such terms have been changed or such fair market value is accurate. (Unless the Tenant delivers to Landlord a copy of a recent MAI appraisal obtained for or by the proposed lender, Landlord may require the Tenant to obtain an MAI appraisal of the Premises, Condo Unit, or portion thereof to be encumbered.) Any loan or aggregate of loans secured by interests in this Lease or the Premises which are granted in violation of the foregoing terms of this Sub-section 16.b.(iii) are prohibited and, if attempted, any security interest granted in this Lease or the Premises, or any rights related thereto, shall be null and void.

17. DEFAULTS AND REMEDIES.

(a). Tenant's Events of Default.

(i) If Tenant fails to make any payment required by this Lease and such failure continues for a period of thirty (30) days after written notice of such failure is delivered to Tenant in accordance with the notice provisions of this Lease; or

(ii) If Tenant fails to keep, perform or observe any of the other covenants to be kept, observed or performed by Tenant hereunder, which failure continues for a period of thirty (30) days after written notice of such failure is delivered to Tenant, unless such failure is of such a nature that it will require more than thirty (30) days to cure, in which case such cure period shall be extended for so long as Tenant shall commence such cure within that thirty days period and continuously and diligently prosecutes the cure of such failure and shall continue to perform all of its other obligations hereunder; or

(iii) If Tenant or any owner of Condo Units in the Premises is permitted to make material alterations, additions or other improvements to the Premises in accordance with Section 12(a) of this Lease, and thereafter fails to meet the requirements imposed by the Landlord as provided by that sub-section or fails to complete such construction in any material respect in accordance with the approved plans and specifications and in accordance with the agreed construction schedule, subject to reasonable extensions of that schedule caused by events outside of the Tenant's or that Condo Unit holder's control, and such failure continues for a period of thirty (30) days after written notice of such failure is delivered to Tenant, unless such failure is of such a nature that it will require more than thirty (30) days to cure, in which case such cure period shall be extended for so long as Tenant or that Condo Unit holder shall commence cure within that thirty days period and continuously and diligently prosecutes the cure of such failure and shall continue to perform all of its other obligations hereunder; or



(iv) The making by Tenant or by any owner of Condo Units in the Premises of any general assignment or general arrangement for the benefit of creditors; the filing by or against Tenant, or by or against any owner of Condo Units in the Premises, of a petition in bankruptcy, unless the petition is dismissed within thirty (30) days; or the appointment of a trustee or receiver to take possession of substantially all of Tenant's or any Condo Unit owner's assets located at the Premises, or of Tenant's interest in this Lease.

Then, in any such event, an "Event of Default" shall exist hereunder. Notwithstanding the foregoing, no sole or independent act or omission by IH, as a Condo Unit owner, shall be deemed to be a default of any term of this Lease by Tenant.

(b). Landlord's Remedies. If an Event of Default occurs, then Landlord may exercise any and all remedies available at law or in equity, including, without limitation, any one or more of the following remedies, which remedies are cumulative and not exclusive.

(i) Without terminating this Lease, Landlord may re-enter the Premises (by legal action, if necessary) and proceed to re-let all or any part of the Premises as Landlord, in its discretion, may deem reasonably necessary or appropriate, and on such terms, rentals and conditions as may be commercially reasonable; all rental received by Landlord from such re-letting shall be applied: first, to Landlord's expenses incurred in connection with any such re-entry and re-letting, including, without limitation, any and all reasonable costs and expenses incurred in renovating or altering space in the Premises to make it suitable for re-letting, attorney's fees and costs incurred for retaking possession of the Premises and for negotiating a new lease, brokerage commissions and fees incurred in connection therewith and advertising costs and expense; second, to all Rent, if any, due hereunder but not paid by Tenant; and third, all other damages and expenses suffered or incurred by Landlord as a result of Tenant's breach hereof, including any attorneys fees, other professional fees or court or arbitration fees and expenses. The residue, if any, shall be held by Landlord as payment of future Rent or damages in the event of termination as the same may become due and payable hereunder; and the balance, if any, at the end of the Term of this Lease shall be paid to Tenant. Should rental received from time to time from the re-letting during any month be a lesser Rental than herein agreed to by Tenant, the Tenant shall pay the deficiency to Landlord. The Tenant shall pay the deficiency each month, as the amount thereof is ascertained by the Landlord, or the total deficiency estimated by the Landlord to accrue over the remainder of the Term of this Lease.

(ii) Notwithstanding the foregoing, Landlord shall also have the right upon Tenant's default to terminate this Lease, accelerate all Rent payments due under this Lease for the remaining Term hereof, and shall be entitled to recover from Tenant the total amount of unpaid Rent together with all past due Rent and any other payment due hereunder, less the amount which is established to be the reasonable rental value of the Premises for the remaining Term, after taking into consideration normal duration of vacancy periods, and deducting tenant improvement costs and Landlord's reasonably anticipated costs of re-letting the Premises.



(iii) Alternatively, by written notice to Tenant, the Landlord may terminate this Lease and take full ownership and possession of the Premises in its own name, which termination shall be effective upon the date of such notice, and upon receipt of such notice, Tenant shall immediately vacate the Premises; and Landlord may institute dispossessory proceedings if Tenant fails to timely vacate. In addition to the foregoing, Landlord may thereafter initiate an action against Tenant for the recovery of all Rent due hereunder through the date of the notice of termination and for the recovery of all costs and expenses incurred by Landlord as a result of such default and repossession, including attorney's fees and costs incurred, costs incurred by Landlord to cure the matter which constituted or gave rise to the Event of Default, and such other damages for loss of value to the Premises and damages otherwise recoverable in actions at law or in equity.

(c). Mortgagee Protection. In the event of any default on the part of Tenant or of any owner of a Condo Unit in the Premises, which default would entitle Landlord to terminate this Lease, Landlord shall not terminate this Lease unless Landlord has notified any Leasehold Mortgagee, whose address shall have been furnished to Landlord, at least sixty (60) days in advance of the proposed effective date of the termination. During the sixty (60) day period the Leasehold Mortgagee shall be entitled to cure the default. If the default is not capable of being cured with due diligence within the sixty (60) day period, and provided that all other defaults under the Lease have been cured, the Lease shall not be terminated if the Leasehold Mortgagee shall have commenced to cure the remaining default within the sixty (60) day period and shall pursue the cure with due diligence thereafter. If the default is one which is not capable of cure by the Leasehold Mortgagee, no extension of the Lease termination period shall be required hereunder.

(d). Default of Landlord. Landlord shall not be in default unless Landlord fails to perform its obligations under this Lease within sixty (60) days after Landlord's receipt of written notice by Tenant, or if such failure is not reasonably capable of being cured within such sixty (60) day period, Landlord shall not be in default unless Landlord has failed to commence the cure during that sixty (60) day period and diligently pursue the cure to completion. In the event any monies are owned by Landlord to Tenant under the terms of this Lease, such amount shall include interest thereon at twelve percent (12%) per annum from the date such monies become payable to Tenant until paid in full.

(e). Non-Waiver. Failure by Landlord to take action or declare a default as a result of Tenant's or Condo Unit owner's breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of that term, covenant, or condition, or of any subsequent breach of any term, covenant or condition herein contained. The subsequent acceptance of Rent hereunder by Landlord shall not be deemed to be a waiver of any preceding breach by Tenant of any term, covenant or condition of this Lease, other than the failure of Tenant to pay the particular Rent so accepted, regardless of Landlord's knowledge of that preceding breach at the time of acceptance of the Rent.

18. NO MERGER. There shall be no merger of this Lease or of the leasehold estate created hereby with the fee estate in and to the Premises by reason of the fact that this Lease or the leasehold estate created hereby, or any interest in either thereof may be held directly or indirectly by or for the account of any person who shall own the fee estate in and to the Premises, or any portion thereof. No such merger shall occur unless and until all persons at the time having an interest in the fee estate and all persons having interest in this Lease or the leasehold estate, including the leasehold mortgagee and the holder of any mortgage upon the fee estate in and to the Premises shall join in a written instrument effecting such a merger.

19. Hazardous Substances.

(a). Tenant is leasing the Premises AS IS, WHERE IS, without any representation or warranty as to the presence of any Hazardous Substance on the Property. Any and all information discovered-by Tenant in its investigation of and ownership and operation of the Premises shall be deemed to have been disclosed by Landlord as of the date of discovery by Tenant.

(b). "Hazardous Substances" shall mean any substance:

(i) which is flammable, explosive, radioactive, toxic, corrosive, infectious, carcinogenic, mutagenic or otherwise hazardous and is or becomes regulated by any governmental authority, agency, department, commission, board, agency or instrumentality of the United States, the State of Washington or any political subdivision thereof; or

(ii) which contains asbestos, organic compounds known as polychlorinated biphenyls, chemicals known to cause cancer or reproductive toxicity or petroleum, including crude oil or any fraction thereof; or

(iii) which is or becomes defined as a pollutant, contaminant, hazardous waste, hazardous substance, hazardous material or toxic substance under the Resource Conservation and Recovery Act, 42 U.S.C. §§6901-6987, the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601-9657, the Hazardous Materials Transportation Act, 49 U.S.C. §§1801-1812, the Clean Water Act, 33 U.S.C. §§1251-1387, the Clean Air Act, 42 U.S.C. §§7401-7642; the Toxic Substances Control Act, 15 U.S.C. §§2601-2655, the Safe Drinking Water Act, 42 U.S.C. §§300f-300j, the Emergency Planning and Community Right to Know Act of 1986, 42 U.S.C. §§11001-11050, the Washington Model Toxics Control Act, RCW 70.105(a), the Washington Underground Petroleum Storage Tanks Act, RCW Chapter 148, as any of the same have been or from time to time may be amended; and any similar federal, state and local laws, statutes, ordinances, codes, rules, regulations, orders or decrees relating to environmental conditions, industrial hygiene or Hazardous Substances on the Premises, including all interpretations, policies, guidelines and/or directives of the various governmental authorities and agencies responsible for administering any of the foregoing, now in effect or hereafter adopted, published and/or promulgated (collectively, the "Hazardous Substances Laws"); or



(iv) the presence of which requires investigation or remediation under any federal, state or local statute, regulation, ordinance, order, action, policy or common law; or

(v) the presence of which on the Premises causes or creates an imminent threat of a nuisance on the Premises or to adjacent properties or poses or creates an imminent threat of a hazard to the health or safety of persons on or about the Premises.

(c). As used in this Section 19, the phrase "on the Premises" shall mean in, on, within or under the Premises and the phrase "on or about the Premises" shall mean in, on, within, under or about the Premises.

(d). As used in this Section 19, the term "environment" shall mean and include the Premises, the sea, sea fisheries, surface waters, the underlying aquifer, the air and any other part of the environment.

(e). Tenant agrees that during its use and occupancy of the Premises it shall comply with all Hazardous Substance Laws with regard to the use, storage, transportation and disposal of Hazardous Substances on the Premises, and Tenant shall, to the fullest extent permitted by law, defend, indemnify and hold Landlord harmless from and against any and all loss, injury, claims, actions, damages, fines, penalties, demands, obligations, assessments, costs (including attorneys' and consultants' fees) and expenses of any kind with regard to Hazardous Substances existing upon the Premises as of the Effective Date (excluding Hazardous Substances existing solely in the Land prior to the Effective Date, which shall be the responsibility of the Landlord), occasioned by or arising out of Tenant's activities on the Premises under this Lease, or the activities of Tenant's subtenants, agents, employees, contractors, or invitees.

(f). Tenant agrees that, should Hazardous Substances exist on the Premises as of the Effective Date, then (i) Landlord shall not be liable for any consequential damages to Tenant (such as lost profits) resulting from such Hazardous Substances, and (ii) as between Landlord and Tenant, except for Hazardous Substances existing solely in the Land prior to the Effective Date (which shall be the responsibility of the Landlord), the Tenant shall be responsible for remediation costs and responsible for bringing the IMC Building into compliance with all applicable laws and regulations.

20. MISCELLANEOUS

(a). Time of Essence. Time is of the essence of each provision of this Lease.

(b). Entire Agreement. This Lease contains the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements or understandings among the parties with respect thereto. This Lease may be amended only by an agreement in writing signed by the parties.



(c). Consent of Parties. Unless otherwise provided herein, whenever consent or approval of either party is required, that party shall not unreasonably withhold or delay such consent or approval.

(d). Corporate Authority. If either party is a corporation or other legal entity, that party covenants that proper corporate authority has been obtained to execute this Lease.

(e). Successors. This Lease shall be binding upon and inure to the benefit of the parties hereto and their successors or assigns.

(f). Obligations of Parties on Termination of Lease. Except for provisions of this Lease which, by their nature, are intended to continue to be in force and effect, including but not limited to Sections 7, 12(c), 13, 16 and 19 hereof, upon termination of this Lease other than for default hereof, on the date the Lease terminates the parties shall be released from further liabilities and obligations hereunder.

(g). Exhibits – Incorporation in Lease. All exhibits referred to are attached to this Lease and incorporated by reference.

(h). Waiver. No purported waiver by Landlord of any default by Tenant of any term, condition or covenant contained herein shall be deemed to be a waiver of such term, condition or covenant unless the waiver is in writing and signed by Landlord. No such waiver shall in any event be deemed a waiver of any subsequent default under the same or any other term, condition or covenant contained herein. Landlord's acceptance of rent or other charges following a default hereunder by Tenant shall not be deemed a waiver of such default or of any earlier default by Tenant of any term, condition or covenant of this Lease, other than the failure of Tenant to pay the particular rent so accepted, regardless of Landlord's knowledge of such default at the time of such acceptance. The consent or approval by Landlord to or of any act by Tenant requiring Landlord's consent or approval shall not be deemed a waiver of the requirements for Landlord's consent or approval to or of any subsequent or similar acts by Tenant.

(i). Accord and Satisfaction. No payment by Tenant or receipt by Landlord of a lesser amount than the rent and other charges herein stipulated shall be deemed to be other than on account of the earliest stipulated rent or other charge, nor shall any endorsement or statement on any check or any letter accompanying a check or payment as rent or other charges be deemed an accord and satisfaction. Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such rent or other charge or to pursue any other remedy in this Lease.

(j). Duplicate Originals. This Lease may be executed in any number of duplicate originals, each of which when fully executed by Landlord and Tenant shall be deemed an original and all of which together shall be deemed the same Lease.

(k). Remedies Cumulative. The various rights, options, elections, powers and remedies contained in this Lease shall be construed as cumulative and no one of them shall be



exclusive of any of the others or of any other legal or equitable remedy which either party might otherwise have in the event of a breach or default in the terms hereof. The exercise of one right or remedy by such party shall not impair its right to any other right or remedy until all obligations imposed on the other party have been fully performed.

(l). Governing Law. This Lease shall be enforced, governed and construed in all respects in accordance with the substantive and procedural laws of the State of Washington, without respect to the laws relating to conflicts of law. The venue of any action arising under this Agreement shall lie in Skagit County, Washington.

(m). Arbitration. Any dispute relating to this Lease may be submitted to binding arbitration pursuant to the provisions of this Section. Any party may initiate the arbitration process by filing a demand for arbitration with the American Arbitration Association with a copy to all other parties to this Lease. The arbitration shall be held in Anacortes, Washington in accordance with the Commercial Arbitration Rules of the American Arbitration Association (the "Rules"); provided, that each party shall select a single commercial arbitrator acceptable to them within thirty (30) days of the date that either submits a controversy, claim or dispute to arbitration and the sole function of the two so selected arbitrators shall be to select a third independent commercial arbitrator who shall conduct the arbitration pursuant to the Rules. If a party fails to appoint a commercial arbitrator within the time provided, the arbitrator selected by the other party shall conduct the arbitration pursuant to the Rules. Any arbitrator shall be instructed to make a reasonable interpretation of the Lease and the intent of the parties for the purpose of making the intent of the parties and the Lease fully binding. Except as otherwise provided herein, each party shall bear its own costs of arbitration, including attorneys fees and costs. The decision of the arbitrator shall be final and binding on the parties and judgment upon any award rendered may be entered in any court having jurisdiction thereof. Notwithstanding the foregoing, any such arbitration proceeding shall be subject to applicable laws, rules and regulations regarding statutes of limitations or repose, rights of discovery, privilege and similar substantive and procedural laws, rules and regulations which would be applicable to a Washington State court proceeding.

(n). Attorneys' Fees. In any action at law or in equity or in any arbitration to enforce any of the provisions or rights under this Lease, the unsuccessful party in such litigation or arbitration, as determined by the court or arbitrator(s) in a final judgment or decree, shall pay the successful party's costs, expenses and attorneys' fees (including, without limitation, any such costs, expenses and attorneys' fees on any appeals or incurred in any bankruptcy or insolvency proceeding), and if such successful party shall recover judgment in any such action or proceeding, such costs, expenses and attorneys' fees shall be included in, and as part of, such judgment.

(o). Interpretation. This Lease has been submitted to the scrutiny of all parties and their counsel, if desired, and it shall be given a fair and reasonable interpretation in accordance with its words, without consideration to or weight given to its being drafted by any party or its counsel. Section headings are for convenience only and shall not be considered when interpreting this Lease. All words used in the singular shall include the plural; the present tense

shall include the future tense; and the masculine gender shall include the feminine and neuter genders

(p). Notices. Any notices to be given hereunder by either party may be effected either by personal delivery in writing or by mail, registered or certified, postage prepaid with return receipt requested. Notices delivered personally shall be deemed communicated as of actual receipt, mailed notices shall be deemed communicated three (3) business days after the deposit of such notice, properly addressed and postage prepaid, with the United States Postal Service. All notices shall be delivered to the following address, unless actual notice in writing of a different address for notices is received by the other party:

LANDLORD:

Island Hospital  
1211 – 24<sup>th</sup> Street  
Anacortes, WA 98221-2590  
Attn: CEO

With a copy to:

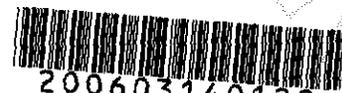
Donald W. Black  
Ogden Murphy Wallace, P.L.L.C.  
1601 Fifth Avenue, Suite 2100  
Seattle, WA 98101-1686

TENANT:

Island Medical Center  
Condominium Association  
1211 – 24<sup>th</sup> St.  
Anacortes, WA 98221

COPIES OF ALL NOTICES TO:

Challenge Developments II, L.L.C.  
12062 Marine Drive  
Anacortes, WA 98221  
Attn: Jerry Zavalney



With a copy to:

Jacob Cohen  
Cohen, Manni & Theune  
Post Office Box 889  
Oak Harbor, WA 98277

(q). Binding Agreement. The provisions of this Lease will be binding upon, and will inure to the benefit of, the respective heirs, legal representatives and successors of the parties.

[The remainder of this page is intentionally blank]



IN WITNESS WHEREOF, the parties have executed this Lease as of the Effective Date set forth above.

**LANDLORD:**

SKAGIT COUNTY PUBLIC HOSPITAL DISTRICT NO. 2  
(d.b.a. Island Hospital)

By: Vincent C. Oliver  
Name: VINCENT C. OLIVER  
Its: CEO

**TENANT:**

SKAGIT COUNTY PUBLIC HOSPITAL DISTRICT NO. 2  
(d.b.a. Island Hospital)

By: Vincent C. Oliver  
Name: VINCENT C. OLIVER  
Its: CEO

CHALLENGE DEVELOPMENTS II, L.L.C.

By: JERALD L. FAWALNSKY  
Name: JERALD L. FAWALNSKY  
Its: MEMBER

ISLAND MEDICAL CENTER CONDOMINIUM ASSOCIATION

By: Vincent C. Oliver  
Name: VINCENT C. OLIVER  
Its: PRESIDENT



STATE OF WASHINGTON )

) ss.

COUNTY OF SKAGIT )

On this 13 day of march, 2006, before me personally appeared Vincent C. Oliver to me known to be the ceo of Skagit County Public Hospital District No. 2, (d.b.a. Island Hospital), the municipal corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said municipal corporation, for the uses and purposes therein mentioned, and on oath stated that he/she was authorized to execute said instrument.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above written.



Mary Mansfield  
(Signature)

Mary Mansfield  
(Name legibly printed or stamped)

Notary Public in and for the State of Washington,  
residing at Anacortes

My appointment expires 10-28-09

STATE OF WASHINGTON )

) ss.

COUNTY OF SKAGIT )

On this 13 day of March, 2006, before me personally appeared Jerald L. Zavatra to me known to be the member of Challenge Developments II, L.L.C., the company that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said company, for the uses and purposes therein mentioned, and on oath stated that he/she was authorized to execute said instrument.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above written.



Mary Mansfield  
(Signature)

Mary Mansfield  
(Name legibly printed or stamped)

Notary Public in and for the State of Washington,  
residing at Anacortes

My appointment expires 10-28-09



STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF SKAGIT )

On this 13 day of March, 2006, before me personally appeared Vincent C. Ottiver, to me known to be the President of Island Medical Center Condominium Association, the corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he/she was authorized to execute said instrument.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above written.



Mary Mansfield  
(Signature)

Mary Mansfield  
(Name legibly printed or stamped)

Notary Public in and for the State of Washington,  
residing at Amesbury

My appointment expires 10-28-09



**EXHIBIT A**

**LEGAL DESCRIPTION OF THE LAND  
SUBJECT TO THE LEASE**

**(To be revised as may be required by survey of the Property or final title insurance  
commitment by Title Company.)**

That portion of the Southeast Quarter of Section 24, Township 35 North, Range 1 East of the Willamette Meridian, described as follows:

Commencing at the East Quarter corner of said Section 24;  
thence South 0°59'30" East, along the East line of said Section 24, 1,223.17 feet to an intersection with the South line of 24th Street;  
thence South 89°58'48" West, along the South line of 24th Street, 396.27 feet to the true point of beginning;  
thence South 0°01'35" East, 264.46 feet,  
thence South 89°58'25" West, 358.50 feet to the East line of "M" Avenue;  
thence North 0°01'35" West, along the East line of "M" Avenue, 264.50 feet to the South line of 24th Street;  
thence North 89°58'48" East along the South line of 24th Street, 358.50 feet to the true point of beginning;

Subject to matters of record as of the Effective Date of the Lease to which this Exhibit A is attached.

Situate in Skagit County, Washington.

END OF EXHIBIT A

