

**SUBLEASE AGREEMENT**

between

**CARMICHAEL & ASSOCIATES, INC.**  
as Sublandlord

and

**COUNTY OF SAN MATEO**  
as Subtenant

For the Sublease of

A Portion Of  
1241 E. Hillsdale Boulevard  
Foster City, California

January 1, 2007

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### **LIST OF EXHIBITS:**

EXHIBIT A – Master Lease

EXHIBIT B – Premises

EXHIBIT C – Master Lessor's Consent

**SUBLEASE AGREEMENT**  
**No. 1280**

This Sublease Agreement ("Sublease") is made as of the January 1, 2007, by and between CARMICHAEL & ASSOCIATES, INC., a California Corporation ("Sublandlord") and COUNTY OF SAN MATEO, A Political Subdivision of the State of California, a ("Subtenant").

## RECITALS

**This Sublease is made with regard to the following facts:**

A. Sublandlord is the tenant under the Office Lease (the "Master Lease"), dated August 3, 2005, with Foster City Medical Center, L.P., a California Limited Partnership (the "Master Landlord"). A copy of that Master Lease is attached to this Sublease and marked as Exhibit A. Under the Master Lease, Sublandlord leases approximately 10,000 rentable square feet of office space (the "Master Lease Premises") located on the second floor of the building (the "Building") located at 1241 E. Hillsdale Boulevard, Foster City, California.

B. Subtenant desires to sublease from Sublandlord a portion of the Premises (the "Subleased Premises"), which Subleased Premises is more particularly described in Exhibit B attached to this Sublease. Sublandlord has agreed to sublease the Subleased Premises to Subtenant on the terms, covenants and conditions, stated in this Sublease.

NOW, THEREFORE, in consideration of the mutual covenants contained in this Sublease, and for valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, the parties agree as follows:

## 1 BASIC SUBLEASE INFORMATION.

The following is a summary of basic sublease information (the "Basic Sublease Information"). Each item below shall be deemed to incorporate all of the terms in this Sublease pertaining to such item. In the event of any conflict between the information in this Section and any more specific provision of this Sublease, the more specific provision shall control.

1.1 Sublease Reference Date: January 1, 2007

Master Lease Reference Date: August 3, 2005

**1.2 Sublandlord:** **CARMICHAEL & ASSOCIATES, INC.**

|  |  |
|--|--|
| 1.3 Subtenant:                             | COUNTY OF SAN MATEO<br>(and permitted successors and assigns)  |
| 1.4 Building (Section 2):                  | Multi-tenant office building located at<br><br>1241 E. Hillsdale Boulevard<br>Foster City, California  |
| 1.5 Premises (Section 2):                  | A portion of the second floor of the Building, as shown on the floor plan attached as Exhibit B, together with non-exclusive use of the reception and waiting areas of the Master Lease Premises and the common areas of the Building (the "Premises").  |
| 1.6 Rentable Area of Premises (Section 2): | Approximately 4,200 rentable square feet.  |
| 1.7 Term (Section 3):                      | Estimated commencement date:<br>January 1, 2007<br><br>Expiration date:<br>January 1, 2010   |
| 1.8 Base Rent (Section 4):                 | Monthly payments: \$13,650.00<br>(\$3.25 per sq. ft.)  |
| 1.9 Rent Adjustment Dates:                 | N/A  |
| 1.10 Use (Section 5):                      | Medical Offices and all ancillary uses.  |
| 1.11 Premises Improvements (Section 8):    | Sublandlord will, at its sole cost and expense, make the leasehold improvements to the Master Premises essentially as shown on Exhibit B, and will furnish and equip the Master Premises for operation as first class medical offices including, without limitation, the installation of all necessary telephones, fixtures and equipment. |

|   |   |
|---|---|
| 1.12 Utilities and Services<br>(Section 10):                                    | Sublandlord shall, at its sole cost and expense, provide all utilities and services to the Premises.  |
| 1.13 Security Deposit:  | None  |
| 1.14 Provisions of Master Lease<br>Not Applicable to Sublease<br>(Section 8.6): | #6 Utilities<br>#7. Tenant Improvements<br>#11. Taxes<br>#14. Early Possession<br>#15. Possession<br>#18 Insurance; Indemnity<br>#30 Attorney's Fees  |
| 1.15 Notice Address of<br>Subtenant:  | Manager<br>Real Property Services Division<br>County of San Mateo<br>Attn: Real Property Services Division<br>455 County Center, 5 <sup>th</sup> Floor<br>Redwood City, California 94063<br>Fax No.: (650) 363-4832 |
| with a copy to:   | CEO<br>San Mateo Medical Center<br>222 West 39 <sup>th</sup> Avenue<br>San Mateo, California 94403<br>Fax No.: (650) 573-3753   |
| And to:   | Office of County Counsel<br>400 County Center, 6 <sup>th</sup> Floor<br>Redwood City, California 94063<br>Fax No.: (650) 363-4034   |
| 1.16 Key Contact for<br>Sublandlord:  | E. "Mike" Carmichael<br><br>Telephone No.: 650 570-2299   |
| Alternate Contact for Sublandlord:  | KAREN SAUERMAN<br><br>Telephone No.: 650 570-2299   |
| Address for Sublandlord:  | 1241 E. Hillsdale Boulevard<br>Foster City, California 94404  |

Address for Subtenant: County of San Mateo  
County of San Mateo Medical Center  
222 West 39<sup>th</sup> Avenue  
San Mateo, California 94403  
Fax No.: (650) 573-3753

1.17 Key Contact for Subtenant: Sang-ick Chang  
Telephone No.: 650-593-3700

Alternate Contact for Subtenant: Real Property Services Manager  
Telephone No.: (650) 363-4326

1.18 Brokers: None

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## **2 PREMISES.**

### **2.1. Sublease Premises**

Sublandlord subleases to Subtenant and Subtenant subleases from Sublandlord, those premises in the Building identified in the Basic Sublease Information and shown on the floor plan(s) attached hereto as Exhibit B (the "Premises"). The Premises shall include the Common Areas as set forth in Section 2.2. below. The Premises contain the rentable area and are located on the floor of the Building specified in the Basic Sublease Information.

### **2.2. Common Areas**

Subtenant shall have the non-exclusive right to use, together with other tenants of the Master Premises the reception areas, restrooms, lobbies, corridors, stairways and other public areas of the Master Premises, and together with other tenants in the Building, the lobbies, corridors, elevators, stairways and other public areas of the Building and the Property (collectively, the "Common Areas"), and the non-exclusive right of access to and from the Premises by the main entrances to the Building and the Property.

Further, Sublandlord shall have the non-exclusive right, on a mutually agreed upon schedule, to use, without compensation to Subtenant, x-ray, laboratory and other equipment installed by Sublandlord in the Premises.

### **2.3. Parking**

Subtenant and its patients and invitees shall have an equitable, non-exclusive right to park in the parking facilities of the Building, in common with other tenants of the Building, provided that Subtenant agrees not to use in excess of its proportionate share of parking facilities, which is five (5) spaces for each 1,000 rentable square feet of the Premises, and agrees to cooperate with Sublandlord and the other tenants in the reasonable use of the parking facilities.

## **3 TERM.**

Subject to the condition set forth in Section 15.6 (Consent of Landlord) and Subtenant's right to early terminate as set forth below, the Premises are leased for a term (the "Term") commencing on the date specified in the Basic Sublease Information as the estimated commencement date (the "Estimated Commencement Date"), or such later date as Sublandlord shall have delivered the Premises to Subtenant with the Leasehold Improvements (as defined below) substantially completed by Sublandlord and accepted by Subtenant, and the County Board of Supervisors shall have authorized the execution of this Lease, in its sole and absolute discretion. The Term of this Lease shall end on the expiration date specified in the Basic Sublease Information, or such earlier date on which this Lease terminates pursuant to the provisions of this Lease.

Notwithstanding anything to the contrary herein, Subtenant shall have the right at any time after the expiration of the twelfth (12<sup>th</sup>) month of the Term to cancel this Lease, without any penalty, fee or other liability, by giving Sublandlord not less than one hundred eighty (180) days prior written notice.

#### **4 RENT.**

Beginning on the Commencement Date, Subtenant shall pay to Sublandlord during the Term the monthly Base Rent specified in Section 1.8 of the Basic Sublease Information (the "Base Rent"). The Base Rent shall be payable in equal consecutive monthly payments on or before the first day of each month, in advance, at the address specified for Sublandlord in Section 1.16 of the Basic Sublease Information, or such other place as Sublandlord may designate in writing upon not less than thirty (30) days' advance notice. Subtenant shall pay the Base Rent without any prior demand and without any deductions or setoff except as otherwise provided in this Lease. If the Commencement Date occurs on a day other than the first day of a calendar month or the Expiration Date occurs on a day other than the last day of a calendar month, then the monthly payment of the Base Rent for such fractional month shall be prorated based on a thirty (30) day month.

#### **5 USE.**

Subtenant may use the Premises for medical office uses and such other uses as may be specified in the Basic Sublease Information, and for no other use without the prior written consent of Sublandlord, which shall not be unreasonably withheld or delayed.

#### **6 MASTER LEASE.**

As applied to this Sublease, the words "Landlord" and "Tenant" in the Master Lease will be deemed to refer to Master Landlord and Sublandlord, respectively, under this Sublease.

Except as otherwise expressly provided in Section 7 and 8 of this Sublease, the covenants, agreements, provisions, and conditions of the Master Lease -- to the extent that they relate to the Subleased Premises and to the extent that they are not inconsistent with the terms of this Sublease -- are made a part of and incorporated into this Sublease as if recited in full in this Sublease.

The rights and obligations of the Master Landlord and the Tenant under the Master Lease will be deemed the rights and obligations of Sublandlord and Subtenant, respectively, under this Sublease, and will inure to the benefit of, and be binding on, Sublandlord and Subtenant, respectively. As between the parties to this Sublease only, in the event of a conflict between the terms of the Master Lease and the terms of this Sublease, the terms of this Sublease will control.

#### **7 PERFORMANCE BY SUBLANDLORD; STATUS OF MASTER LEASE**

##### **7.1. Sublandlord's Performance Conditioned on Master Landlord's Performance.**

Subtenant recognizes that Sublandlord is not in a position to render any of the services or to perform any of the obligations required of Master Landlord by the terms of the Master Lease. Therefore, despite anything to the contrary in this Sublease, Subtenant agrees that performance by Sublandlord of its obligations under this Sublease is conditioned on performance by the Master Landlord of its corresponding



obligations under the Master Lease, and Sublandlord will not be liable to Subtenant for any default of the Master Landlord under the Master Lease.

Subtenant will not have any claim against Sublandlord based on the Master Landlord's failure or refusal to comply with any of the provisions of the Master Lease unless that failure or refusal is a result of Sublandlord's act or failure to act. Despite the Master Landlord's failure or refusal to comply with any of those provisions of the Master Lease, this Sublease will remain in full force and effect and Subtenant will pay the base rent and additional rent and all other charges provided for in this Sublease without any abatement, deduction or setoff. Except as expressly provided in this Sublease, Subtenant agrees to be subject to, and bound by, all of the covenants, agreements, terms, provisions, and conditions of the Master Lease, as though Subtenant was the Tenant under the Master Lease.

## **7.2. Obtaining Master Landlord's Consent.**

Whenever the consent of the Master Landlord is required under the Master Lease, and wherever the Master Landlord fails to perform its obligations under the Master Lease, Sublandlord agrees to use its reasonable, good faith efforts to obtain, at Subtenant's sole cost and expense, that consent or performance on behalf of Subtenant.

## **7.3. No Existing Defaults.**

Sublandlord represents and warrants to Subtenant that the Master Lease is in full force and effect, and Sublandlord has neither given nor received a notice of default under the Master Lease.

## **7.4. Preservation of Master Lease.**

Sublandlord agrees not to terminate the Master Lease voluntarily, or modify the Master Lease in a manner that adversely affects Subtenant's rights under this Sublease. Subtenant and Sublandlord will each refrain from any act or omission that would result in the failure or breach of any of the covenants, provisions, or conditions of the Master Lease on the part of the Tenant under the Master Lease.

# **8 VARIATIONS FROM MASTER LEASE.**

As between Sublandlord and Subtenant, the terms and conditions of the Master Lease are modified as stated below in this Section 8:

## **8.1. Rent; Term; Security Deposit.**

Despite anything to the contrary stated in the Master Lease, the term of this Sublease, rent and additional rent payable under this Sublease are only as stated in Sections 2, 3 and 4 above.

## **8.2. Brokers.**

The parties to this Sublease represent and warrant to each other that neither party dealt with any broker or finder in connection with the consummation of this

Sublease and each party agrees to protect, defend, indemnify, and hold the other party harmless from and against any and all claims or liabilities for brokerage commissions or finder's fees arising out of that party's acts in connection with this Sublease. The provisions of this Section 8.2 shall survive the expiration or earlier termination of this Sublease.

### **8.3. Insurance and Condemnation Proceeds.**

Anything contained in the Master Lease to the contrary notwithstanding, as between Sublandlord and Subtenant only, in the event of damage to or condemnation of the Subleased Premises, all insurance proceeds or condemnation awards received by Sublandlord under the Master Lease will be deemed to be the property of Sublandlord, and Sublandlord will have no obligation to rebuild or restore the Subleased Premises.

### **8.4. Notices.**

Any notice that may or must be given by either party under this Sublease will be delivered (i) personally, (ii) by certified mail, return receipt requested, or (iii) by a nationally recognized overnight courier, addressed to the party to whom it is intended. Any notice given to Sublandlord or Subtenant shall be sent to the respective address set forth on the signature page below, or to such other address as that party may designate for service of notice by a notice given in accordance with the provisions of this Section 8.4. A notice sent pursuant to the terms of this Section 8.4 shall be deemed delivered (A) when delivery is attempted, if delivered personally, (B) three (3) business days after deposit into the United States mail, or (C) the day following deposit with a nationally recognized overnight courier.

### **8.5. Amounts Payable.**

All amounts payable under this Sublease by Subtenant are payable directly to Sublandlord.

### **8.6. Provisions of Master Lease Not Applicable.**

The provisions of the following sections of the Master Lease will not apply to this Sublease:

- #6. Utilities
- #7. Tenant Improvements
- #11. Taxes
- #14. Early Possession
- #15. Possession
- #18. Insurance; Indemnity
- #30. Attorneys Fees
- #32. Brokers

### **8.7. Condition of the Premises**

Sublandlord will, through its general contractor, construct the improvements to the Master Premises and the Premises essentially as shown in the attached Exhibit B of this Sublease. Such work and installations are referred to as the "Leasehold Improvement Work" and "Leasehold Improvements." Sublandlord shall

complete the Leasehold Improvements in the Premises, at no cost to Subtenant, in accordance with plans prepared for plan check submittal by Ware Malcomb ("Architect") and dated September 26, 2006. All Leasehold Improvement Work shall be completed in a good and workmanlike manner, and in compliance with all applicable laws, codes and ordinances. Sublandlord shall secure and pay any building and other applicable and necessary permits and approvals, fees, licenses and inspections necessary for the proper performance and completion of the Leasehold Improvements. The Premises shall be deemed substantially complete when Subtenant can occupy the Premises and conduct its business for its intended uses, and when the Premises are compliant with all applicable laws, including, without limitation, the most stringent requirements of the Americans With Disabilities Act of 1990, Title 24 of the California Code of Regulations (or its successor) (ADA) and Subtenants requirements for program accessibility. For the purposes hereof it is acknowledged that the adoption by Sublandlord of a valid plan to fully comply with all ADA requirements that sets forth a reasonable schedule for such compliance ("Transition Plan") meets the standards set forth herein. It is hereby acknowledged that Sublandlord will implement immediate measures to facilitate ADA accessibility pending completion by the Master Lessor of the installation of new elevator service that will fully comply with ADA accessibility requirements, which installation will be complete within twelve (12) months of the Commencement Date.

In addition to the Leasehold Improvements, Sublandlord shall, at its sole cost and expense, furnish and equip the Master Premises and the Premises as a first class medical office, and shall at all times keep such furnishings and equipment in good condition and repair. Such equipment shall include, without limitation, communications, computer, laboratory and x-ray equipment.

**8.7.1 Sublandlord's Default:** If Sublandlord fails to (i) deliver the Premises with Leasehold Improvements complete as herein stated, (ii) comply with Subtenant's requirements for program accessibility under the Americans With Disabilities Act of 1990, Title 24 of the California Code of Regulations (or its successor) or (iii) perform any of its obligations under this Sublease, then (without limiting any of Subtenant's other cure rights under this Sublease) Subtenant may, at its sole option, cure such default at Sublandlord's expense if such default continues after ten (10) days from the date Subtenant gives notice to Sublandlord of Subtenant's intention to perform such cure. However, in the case of a default which for causes beyond Sublandlord's control (excluding any financial inability to perform) cannot with due diligence be cured within such 10-day period, such 10-day period shall be extended if Sublandlord, promptly upon receipt of Subtenant's notice, advises Subtenant of Sublandlord's intention to take all steps required to cure such default, and Sublandlord promptly commences such cure and diligently prosecutes the same to completion. Subject to the other provisions of this Sublease relating to abatement of Rent, if Sublandlord fails to cure any default within the cure period provided above, then, whether or not Subtenant elects to cure Sublandlord's default as provided herein, the Base Rent and any other charges hereunder shall be abated based on the extent to which such default interferes with Subtenant's ability to carry on its business at the Premises. Notwithstanding the foregoing, if any such default by Sublandlord continues for sixty (60) days and impairs Subtenant's ability to carry on its business in the Premises, then Subtenant shall have

the right to terminate this Sublease upon written notice to Sublandlord within thirty (30) days after the expiration of such 60-day period. Subtenant's rights hereunder shall not limit in any way any of its other rights and remedies hereunder or at law or in equity.

## **9 INSURANCE AND INDEMNITY.**

Sublandlord acknowledges that Subtenant maintains a program of self-insurance and agrees that Subtenant shall not be required to carry any insurance with respect to this Sublease. Subtenant assumes the risk of damage to any of Subtenant's Personal Property, except for damage caused by Sublandlord or its Agents.

Subtenant is presently self-insured in the amount of \$300,000 each occurrence giving rise to personal injury and property damage liabilities for which Subtenant could be held responsible. In addition, Subtenant presently has in force excess insurance with an annual aggregate of \$19,750,000. Said self-insurance and excess insurance provide coverage for personal injury and property damage liabilities arising out of the acts and/or omissions of Subtenant, its officers, agents, contractors and employees, while on the Premises. Subtenant upon request of Sublandlord shall furnish Sublandlord with a Certificate of Insurance that shall provide that Sublandlord would receive ten (10) days' prior notice of cancellation, change in scope or modification of such coverage. Nothing herein shall be interpreted to require Subtenant or its insurer to provide a defense for, to provide insurance for, or to indemnify Sublandlord except as may be otherwise required by law.

Subtenant agrees to protect, defend, indemnify, and hold Sublandlord harmless from and against any and all liabilities, claims, expenses, losses and damages (including reasonable attorney fees and costs), that may at any time be asserted against Sublandlord by (a) the Master Landlord for failure of Subtenant to perform any of the covenants, agreements, terms, provisions, or conditions contained in the Master Lease that Subtenant is obligated to perform under the provisions of this Sublease; or (b) any person as a result of Subtenant's use or occupancy of the Subleased Premises, except to the extent any of the foregoing is caused by the negligence or willful misconduct of Sublandlord.

Sublandlord agrees to protect, defend, indemnify, and hold Subtenant, its officers, agents, employees, and servants harmless from and against any and all liabilities, claims, expenses, losses, and damages (including reasonable attorney fees and costs) that may at any time be asserted against Subtenant by (a) the Master Landlord for failure of the Sublandlord to perform any of the covenants, agreements, terms or conditions contained in the Master Lease that Sublandlord is obligated to perform under the provisions of this Sublease; or (b) any person as a result of Subtenant's use or occupancy of the Subleased Premises, to the extent that any of the foregoing is caused by the negligence or willful misconduct of the Sublandlord.

The provisions of this Section 9 will survive the expiration or earlier termination of the Master Lease or this Sublease.

## **10 UTILITIES AND SERVICES.**

### **10.1 Sublandlord's Provision of Utilities**

Sublandlord shall furnish the following utilities and services to the Premises: (a) heating, air conditioning and ventilation in amounts required for Subtenant's comfortable use and occupancy of the Premises, during the period from 8:00 a.m. to 6:00 p.m., Monday through Saturday, except holidays generally recognized by agencies of the County of San Mateo; (b) electric current in amounts required for normal lighting and for the operation of personal computers and other medical office equipment, on a twenty-four (24) hours-a-day, seven-days-a-week basis ("Daily Basis"); (c) elevator service on a Daily Basis; and (d) water for laboratory, lavatory, kitchen and drinking purposes on a Daily Basis. Without limiting Sublandlord's obligations hereunder, Sublandlord shall furnish all utilities and services required under this Lease in a manner consistent with such utilities and services normally provided in other medical office buildings similar to the Building in San Mateo County.

### **10.2 Janitorial Service**

Sublandlord shall provide at its cost janitorial service in accordance with the best practices for medical office buildings in the County of San Mateo.

## **11 SURRENDER**

Upon the expiration or earlier termination of this Sublease, Subtenant shall surrender the Premises in the same condition and repair as the Premises were delivered to Subtenant on the effective date of this sublease, excepting only ordinary wear and tear. Subtenant agrees to repair any damage to the Premises, or the building of which the Premises are a part, caused by or related to the removal by Subtenant of any articles of personal property, business or trade fixtures, machinery, equipment, cabinetwork, signs, furniture, movable partitions or permanent improvements or additions which Sublandlord allows or requires Subtenant to remove, including, without limitation, repairing the floor and patching and/or painting the walls where required by Sublandlord to the reasonable satisfaction of Sublandlord and/or Master Lessor, all at Subtenant's sole cost and expense.

## **12 CANCELLATION OF MASTER LEASE.**

In the event the Master Lease is canceled or terminated for any reason, or involuntarily surrendered by operation of law before the expiration date of this Sublease, Subtenant agrees, at the sole option of the Master Landlord, to attorn to the Master Landlord for the balance of the term of this Sublease and on the then executory terms of this Sublease.

That attornment will be evidenced by an agreement in form and substance reasonably satisfactory to the Master Landlord. Subtenant agrees to execute and deliver such an agreement at any time within ten (10) business days after request by the Master Landlord. Subtenant waives the provisions of any law now or later in effect that may provide Subtenant any right to terminate this Sublease or to surrender possession of the Subleased Premises in the event any proceeding is brought by the Master Landlord to terminate the Master Lease.

### **13 CERTIFICATES.**

Each party to this Sublease will, from time to time as requested by the other party, on not less than ten (10) days prior written notice, execute, acknowledge, and deliver to the other party a statement in writing certifying that this Sublease is unmodified and in full force and effect for if there have been modifications that this Sublease is in full force and effect as modified and stating the modifications). That statement will certify the dates to which base rent, additional rent, and any other charges have been paid. That statement will also state whether, to the knowledge of the person signing the certificate, the other party is in default beyond any applicable grace period provided in this Sublease in the performance of any of its obligations under this Sublease. If the other party is in default beyond any applicable grace period, the statement will specify each default of which the signer then has knowledge. It is intended that this statement may be relied on by others with whom the party requesting that certificate may be dealing.

### **14 ASSIGNMENT OR SUBLEASING.**

Subject to the rights of the Master Landlord and the restrictions contained in the Master Lease in connection with a Transfer, Subtenant is not entitled to assign this Sublease or to sublet all or any portion of the Subleased Premises without the prior written consent of Sublandlord. That consent may not be unreasonably withheld by Sublandlord.

### **15 GENERAL PROVISIONS.**

#### **15.1. Severability.**

If any provision of this Sublease or the application of any provision of this Sublease to any person or circumstance is, to any extent, held to be invalid or unenforceable, the remainder of this Sublease or the application of that provision to persons or circumstances other than those as to which it is held invalid or unenforceable, will not be affected, and each provision of this Sublease will be valid and be enforced to the fullest extent permitted by law.

#### **15.2. Entire Agreement; Waiver.**

This Sublease constitutes the final, complete and exclusive statement between the parties to this Sublease pertaining to the Subleased Premises, supersedes all prior and contemporaneous understandings or agreements of the parties, and is binding on and inures to the benefit of their respective heirs, representatives, successors, and assigns. No party has been induced to enter into this Sublease by, nor is any party relying on, any representation or warranty outside those expressly set forth in this Sublease. Any agreement made after the date of this Sublease is ineffective to modify, waive, release, terminate, or effect an abandonment of this Sublease, in whole or in part, unless that agreement is in writing, is signed by the parties to this Sublease, and specifically states that that agreement modifies this Sublease.

**15.3. Captions.**

Captions to the sections in this Sublease are included for convenience only and do not modify any of the terms of this Sublease.

**15.4. Further Assurances.**

Each party to this Sublease will at its own cost and expense execute and deliver such further documents and instruments and will take such other actions as may be reasonably required or appropriate to evidence or carry out the intent and purposes of this Sublease.

**15.5. Governing Law.**

This Sublease will be governed by and in all respects construed in accordance with the laws of the State of California.

**15.6. Consent of Landlord.**

The Master Landlord's written consent to this Sublease in accordance with the terms of Article 8 of the Master Lease is a condition precedent to the validity of this Sublease. Master Landlord's consent is attached hereto as Exhibit C, and incorporated herein by reference.

**15.7. Capitalized Terms.**

All terms spelled with initial capital letters in this Sublease that are not expressly defined in this Sublease will have the respective meanings given such terms in the Master Lease.

**15.8. Word Usage.**

Unless the context clearly requires otherwise, (a) the plural and singular numbers will each be deemed to include the other; (b) the masculine, feminine, and neuter genders will each be deemed to include the others; (c) "shall," "will," "must," "agrees," and "covenants" are each mandatory; (d) "may" is permissive; (e) "or" is not exclusive; and (f) "includes" and "including" are not limiting.

**15.9. Acceptance of Lease by Sublandlord**

This Lease shall be null and void unless Sublandlord accepts it and returns to County three (3) fully executed counterparts hereof on or before 5:00 p.m. local time on December 29, 2006.

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS SUBLEASE, SUBLANDLORD ACKNOWLEDGES AND AGREES THAT NO OFFICER OR EMPLOYEE OF SUBTENANT HAS AUTHORITY TO COMMIT SUBTENANT HERETO UNLESS AND UNTIL THE SUBTENANT BOARD OF SUPERVISORS HAS ADOPTED A RESOLUTION AUTHORIZING THE EXECUTION OF THIS SUBLEASE. THEREFORE, ANY OBLIGATIONS OR LIABILITIES OF SUBTENANT HEREUNDER ARE CONTINGENT UPON ADOPTION OF SUCH A RESOLUTION, AND THIS

AMENDMENT SHALL BE NULL AND VOID UNLESS THE BOARD OF SUPERVISORS ADOPTS A RESOLUTION AUTHORIZING THE EXECUTION OF THIS SUBLEASE. APPROVAL OF THIS SUBLEASE BY ANY DEPARTMENT, COMMISSION OR AGENCY OF SUBTENANT SHALL NOT BE DEEMED TO IMPLY THAT SUCH RESOLUTION WILL BE ADOPTED, NOR WILL ANY SUCH APPROVAL CREATE ANY BINDING OBLIGATIONS ON SUBTENANT.

SUBLANDLORD: CARMICHAEL & ASSOCIATES, INC., a  
California Corporation

BY: 

ITS: CEO 1/5/07

BY: \_\_\_\_\_

ITS: \_\_\_\_\_

SUBTENANT: COUNTY OF SAN MATEO, A Political  
Subdivision of the State of California

BY: \_\_\_\_\_

President, Board of Supervisors

ATTESTED:

\_\_\_\_\_  
Clerk of Said Board



**EXHIBIT A**

**Master Lease**

## AMENDED AND RESTATED COMMERCIAL LEASE

### 1. PARTIES.

This Amended and Restated Lease is made and entered into this 31st day of August, 2005 by and between Foster City Medical Center, LP (hereinafter referred to as LESSOR) and Carmichael & Associates, Inc. (hereinafter referred to as LESSEE).

### 2. PREMISES.

LESSOR hereby leases to LESSEE and LESSEE hereby leases from LESSOR, with the terms and conditions hereinafter set forth, that certain real property and the building and other improvements located thereon situated in the City of Foster City, County of San Mateo, State of California and described as follows: 10,000 ft<sup>2</sup> in the west corner of the 2nd floor of 1241 E. Hillsdale Blvd.

### 3. TERM.

The term of this Lease shall be for 5 years, commencing on the 1st day of June, 2006 and ending on the 1st day of June, 2011, unless terminated earlier as hereinafter provided. At the conclusion of this Lease the LESSOR and LESSEE, at their option, can continue this agreement as a month to month Lease or enter into a new Lease agreement, based upon the written agreement of the parties.

### 4. RENT.

a. LESSEE shall pay to LESSOR as rent, on the 1<sup>st</sup> day of each calendar month, the greater of:

i. Two Dollars and Fifty Cents (\$2.50) per leased square foot per month; or

ii. Eight Percent (8%) of the yearly gross Revenue of Carmichael and Associates divided by 12 per month.

b. PAYMENT TERMS. The first monthly payment shall be made on the later of June 1, 2006 or the date that tenant improvements are substantially complete. The rental payment amount for any partial calendar months included in the lease term shall be prorated on a daily basis. All payments shall be made to LESSOR or agent: c/o Stuart J. Hays, Foster City Medical Center, LP, One California Street, Suite 2800, San Francisco, CA 94111. A late fee in the amount of Five Hundred Dollars (\$500.00) may be assessed if payment is not postmarked or received by LESSOR on or before the 5<sup>th</sup> day after the date the rent is due.

### 5. USE.

LESSEE shall use the premises primarily for a Medical Clinic or for a business of similar characteristic and for no other purpose without LESSOR'S prior written consent.

LESSEE hereby accepts the Premises in their condition existing as of the date that LESSEE possesses the Premises, subject to all applicable zoning, municipal, county, State, and Federal laws, ordinances, regulations governing or regulating the use of the Premises and accepts the Lease subject thereto and to all matters disclosed thereby.

6. **UTILITIES.**

**OTHER EXPENSES.** LESSEE shall pay to LESSOR an amount not to exceed seventy-five cents (\$0.75) per leased square foot per month to reimburse LESSOR for expenses incurred in providing utilities to the leased premises and payment for real property taxes. LESSEE hereby warrants that usage of utilities by LESSEE shall be reasonable.

7. **TENANT IMPROVEMENTS.**

Tenant's improvements designed by LESSOR'S architect shall be submitted to LESSEE for approval, concurrently with a design for accessibility including the replacement of the wooden entrance structure that protrudes from the front entrance.

8. **ASSIGNMENT AND SUBLETTING.**

LESSEE shall not voluntarily or by operation of law assign, transfer, sublet, mortgage, or otherwise transfer or encumber any part or all of LESSEE'S interest in this Lease or in the Premises without LESSOR'S prior written consent. Any attempted assignment, transfer, mortgage, encumbrance or subletting without such consent shall be void and shall constitute a breach of this Lease.

The only exception allowed to the above is that LESSEE shall have the right without LESSOR'S consent, to assign this lease to a business with which LESSEE may merge or consolidate, to any subsidiary of LESSEE, to any corporation under common control with LESSEE, or to a purchaser of substantially all of LESSEE'S assets.

Regardless of LESSOR'S consent, no subletting or assignment shall release LESSEE or LESSEE'S obligation to pay the rent and to perform all other obligations to be performed by LESSEE hereunder for the term of this Lease. The acceptance of rent by LESSOR from any other person shall not be deemed a waiver by LESSOR of any provision hereof. Consent to one assignment or subletting shall not be deemed consent to any subsequent assignment or subletting.

**SUBLETTING.** LESSEE shall be entitled to 100% of the profits, if any, from any sublease or assignment of the Lease to a third party. Nothing in this section shall modify or remove LESSEE'S obligation to obtain written consent from LESSOR prior to subleasing the Leased Premises to a third party as set forth in the Lease.

9. **SIGNS.**

Following LESSOR'S written consent, LESSEE shall have the right to place on the Premises, at locations selected by LESSEE, any sign, awning, banner, or other exterior decorations which are permitted by applicable zoning ordinances and private restrictions.

LESSOR and LESSEE shall cooperate in obtaining signage that promotes the effort to brand the Property and LESSEE's business as "Foster City Medical Center." LESSOR shall assist and cooperate with LESSEE in obtaining any necessary permission from governmental authorities or adjoining owners and occupants for LESSEE to place or construct the foregoing signs. LESSEE shall repair all damage to the Premises resulting from the removal of signs installed by LESSEE.

10. REPAIRS AND MAINTENANCE.

The LESSOR shall maintain the heating, ventilation, air-conditioning, plumbing, electrical and light systems servicing the Premises.

(A) Lessor's Obligations.

Except as provided in Section 10, and except for damage caused by negligent or intentional act of omission of LESSEE, LESSEE'S agents, employees, or invitees, LESSOR at its sole cost and expense shall keep in good condition and repair of the foundations, exterior walls, and exterior roof of the Premises. LESSOR shall also maintain the unexposed electrical, plumbing, and sewage systems including, without limitation, those portions of the system lying outside the Premises: window frames, gutters and down spouts on the building, all sidewalks, landscaping and other improvements that are a part of the Premises or of which the Premises are a part. LESSOR shall resurface and re-stripe the parking area on or adjacent to the Premises when necessary.

LESSOR shall have thirty (30) days after notice from the LESSEE to commence to perform its obligations under this section, except that the LESSOR shall perform these obligations immediately if the nature of the problem presents a hazard or emergency situation.

If LESSOR does not perform these obligations within the time set forth in this section, LESSEE can perform said obligations and shall have the right to be reimbursed for the amount that LESSEE actually expends in the performance of LESSOR'S obligations.

If LESSOR does not reimburse LESSEE within thirty (30) days after demand from LESSEE, LESSEE'S may institute mediation or arbitration against the LESSOR, and LESSEE shall not have the right to withhold from future rent the sums LESSEE has expended.

(B) Lessee's Obligations.

Subject to the provisions of subsection (a) above and Section 10 LESSEE at LESSEE'S sole cost and expense shall keep in good order, condition and repair the Premises and every part thereof including, without limitation, all of LESSEE'S personal property, fixtures, signs, store fronts, plate glass, show windows, doors, interior walls, interior ceiling, and lighting facilities.

If LESSEE fails to perform LESSEE'S obligation as stated herein, LESSOR may at its option (but shall not be required to), enter the Premises, after ten (10) days prior written notice to LESSEE, put the same in good order, condition and repair, and the costs thereof together with interest thereon (at a rate equal to the lesser of the then highest lawful rate or 8.0% per annum) shall become due and payable as additional rental to LESSOR together with LESSEE'S next rental.

11. TAXES.

(A) Personal Property Taxes.

LESSEE shall pay prior to the delinquency all taxes assessed against the levied upon the trade fixtures, furnishings, equipment and other personal property of LESSEE contained in the Premises. LESSEE shall endeavor to cause such trade fixtures, furnishings and equipment and all other personal property to be assessed and billed separately from the property of the LESSOR. If any LESSEE'S said personal property shall be assessed with LESSOR'S property, LESSEE shall pay the LESSOR the taxes attributable to LESSEE within ten (10) days after receipt of a written statement from LESSOR setting forth the taxes applicable to LESSEE'S property.

12. ESTOPPELS CERTIFICATES.

Each party, within ten (10) days after notice from the other party, shall execute and deliver to the requesting party a estoppels certificate stating that this Lease is unmodified and in full force and effect, or in full force and effect as modified, and stating the modification. The certificate shall also state the amount of minimum monthly rent, the dates to which rent has been paid in advance, and the amount of any security deposit or prepaid rent, if any, as well as acknowledging that there are not, to that party's knowledge, any uncured defaults on the part of the other party, or specifying such defaults, if any, which are claimed.

13. LESSOR'S RIGHT TO INSPECTION.

LESSOR and LESSOR'S agent shall have the right to enter the Premises at reasonable time with notice for the purpose of inspecting same, showing the same to prospective purchasers, tenants, or lenders, and (as LESSOR may deem necessary or desirable) make such alterations, repairs, improvements or additions to the Premises or for the purpose of posting notices of non-responsibly for alterations, additions or repairs to the building of which the Premises are a part. LESSOR may at any time place on or about the Premises any ordinary "For Sale" signs and LESSOR may at any time during the last one hundred twenty (120) days of the term of this Lease place on or about the Premises any ordinary "For Sale or Lease" signs, all without rebate of rent or liability to LESSEE.

14. EARLY POSSESSION.

In the event that the LESSOR shall permit LESSEE to occupy the Premises prior to the commencement date of the term of this Lease, such occupancy shall be subject to all the

provisions of this Lease. Said early possession shall not advance the termination date of this Lease.

15. **POSSESSION.**

If the LESSOR for any reason cannot deliver possession of the Premises to LESSEE at the commencement of the term, the LESSOR shall not be liable to LESSEE for any loss or damage as a result of this inability. However, there shall be a proportionate deduction of rent. In addition, the Lease shall be void-able for a period of ten (10) days thereafter. If for any reason the Premises cannot be delivered within forty five (45) days period, the LESSEE may, prior to LESSOR'S delivery of the Premises, declare this Lease to be null and void and all money paid to LESSOR shall be refunded to LESSEE.

16. **ALTERATIONS AND ADDITIONS.**

LESSEE shall not, without the LESSOR'S prior written consent, make any alterations, improvements or additions in or about the Premises except for non-structural work which does not exceed \$1,000 in cost per month. The LESSOR has the right to require the LESSEE to remove any alterations, improvements, or additions at the expiration of the lease, and to restore the any or all parts of the Premises to their prior condition. If LESSOR so chooses and gives LESSEE written notice of their choice at least 10 days prior to the last day of this lease the LESSEE, at its sole cost, shall restore the Premises to the condition designated by LESSOR in its notice before the last day of this Lease.

Before commencing any work relating to the alterations, additions, or improvements affecting the Premises, LESSEE shall notify LESSOR in writing of the expected date of the commencement of such work so that LESSOR can post and record the appropriate notices of non-responsibility to protect LESSOR from any mechanic's liens, material liens, or any other liens. In any event, LESSEE shall pay, when due, all claims for labor and materials furnished to or for LESSEE at or for use in the Premises. LESSEE shall not permit any mechanic's liens or material liens to be levied against the Premises for any labor or material furnished to LESSEE or claimed to have been furnished to LESSEE or LESSEE'S agents or contractors in connection with work of any character performed or claimed to have been performed on the Premises by or at the direction of LESSEE. LESSEE shall have the right to assess such lien if, immediately on demand by LESSOR, LESSEE procures and records a lien release bond meeting all legal requirements and shall provide for the payment of any sum that the claimant may recover on the claim (together with the costs of suit, if it is recovered in the action).

All alterations, improvements, and additions are to be made in a workmanlike manner and utilizing good quality materials.

Unless the LESSOR requires their removal as set forth above, all alterations, improvements or additions which are made on the Premises by the LESSEE shall become the property of the LESSOR and remain upon and be surrendered with the Premises at the expiration of the term. Notwithstanding the provisions of this section, LESSEE'S trade fixtures, furniture, equipment and other machinery, other than that which is affixed

to the Premises so that it cannot be removed without material or structural damage to the Premises, shall remain the property of the LESSEE and removed by LESSEE at the expiration of the term of this Lease.

LESSEE shall not change any lock nor shall LESSEE alter any lock so that the keys originally furnished by LESSOR will not operate the same without LESSOR written permission.

17. **DAMAGE OR DESTRUCTION.**

(A) **Damage -- Insured.**

If, during the term of this Lease, the Premises and/or the building and other improvements in which the Premises are located are totally or partially destroyed rendering the Premises totally or partially inaccessible or unusable, and such damage or destruction was caused by a casualty covered under an insurance policy required to be maintained hereunder LESSOR shall restore the Premises and/or the building and other improvements in which the Premises are located into substantially the same condition as they were in immediately before such damage or destruction, provided that the restoration can be made under the existing laws and can be completed within ninety (90) working days after the date of such destruction or damage. Such destruction or damage shall not terminate this Lease.

If the restoration cannot be made in same ninety (90) day period, then within fifteen (15) days after the parties determine that the restoration cannot be made in the time stated in this subsection, LESSEE may terminate this Lease immediately by giving notice to LESSOR and the Lease will be deemed cancelled as of the date of such damage or destruction. If LESSEE fails to terminate this Lease and the restoration is permitted under the existing laws, LESSOR, at its option, may terminate this Lease or restore the Premises and/or any other improvements in which the Premises are located within a reasonable time and this Lease shall continue in full force and effect, if the existing laws do not permit the restoration, either party can terminate this Lease immediately by giving notice to the other party.

Notwithstanding the above, if the LESSEE is the insuring party and if the insurance proceeds received by LESSOR are not sufficient to affect such repair, LESSOR shall give notice to LESSEE of the amount required in addition to the insurance proceeds to affect such repair. LESSEE may, at LESSEE'S option, contribute the required amount, but upon failure to do so within thirty (30) days following such notice, LESSOR'S sole remedy shall be, LESSEE'S option and with no liability to LESSEE, to cancel and terminate this Lease. LESSEE shall contribute such amount to LESSOR within said thirty (30) day period, LESSOR shall make such repairs as soon as reasonably possible and this Lease shall continue. LESSEE shall in no event have any right to reimbursement for any amount so contributed.

**(B) Damage - Uninsured.**

In the event that the Premises are damaged or destroyed by a casualty which is not covered by the fire and extended coverage insurance required to be carried by the party designated in subsection (a) above, then LESSOR shall restore the same; provided that if the damage or destruction is to an extent greater than ten (10%) percent of the then replacement costs of such improvements on the Premises (exclusive of LESSEE'S trade fixtures and equipment and exclusive of foundations and footings), then LESSOR may elect not to restore and to terminate this Lease. LESSOR must give to LESSEE written notice of its intention not to restore within thirty (30) days from the date of such damage or destruction and, if not given, LESSOR shall be deemed to have elected to restore and in such event shall repair any damage as soon as reasonably possible. In the event that LESSOR elects to give such notice of LESSOR'S intention to cancel and terminate this Lease, LESSEE shall have the right, within ten (10) days after receipt of such notice, to give written notice to LESSOR of LESSEE'S intention to repair such damage at LESSEE'S expense, without reimbursement from LESSOR. In which event the Lease shall continue in full force and effect and LESSEE shall proceed to make such repairs as soon as reasonably possible. If the LESSEE does not give such notice within such ten (10) day period, this Lease shall be cancelled and be deemed terminated as of the date of the occurrence of such damage or destruction.

**(C) Damage - Near The End Of The Term.**

If the Premises are totally or partially destroyed or damaged during the last twelve (12) months of the term of this Lease, LESSOR may, at LESSOR'S option cancel and terminate this Lease as of the date of the cause of such damage by giving written notice to LESSEE of LESSOR'S election to do so within thirty (30) days after the date of the occurrence of such damage; provided, however, that, if the damage or destruction occurs within the last twelve (12) months of the term and if within fifteen (15) days after the date of such damage or destruction LESSEE exercises any option to extend the term provided herein, LESSOR shall restore the Premises if obligated to do so as provided in subsection (a) or (b) above.

**(D) Abatement Of Rent.**

If the Premises are partially or totally destroyed and LESSOR or LESSEE repairs or restores them pursuant to the provisions in this section, the rent payable hereunder for the period during which such damage, repair or restoration continues shall be abated in proportion to the degree to which LESSEE'S reasonable use of the Premises is impaired. Except for the abatement of rent, if any, LESSEE shall have no claim against LESSOR for any damages suffered by reason of any such damage, destruction, repair or restoration.

**(E) Trade Fixtures And Equipment.**



If LESSOR is required or elects to restore the Premises as provided in this section, LESSOR shall not be required to restore LESSEE'S improvements, trade fixtures, equipment or alterations made by LESSEE, such excluded items being the sole responsibility of the LESSEE to restore hereunder.

(F) **Total Destruction Multi Tenant Building.**

If the Premises are a part of a multi use building and there is destruction to the Premises and/or the building of which the Premises are a part that exceeds fifty (50%) percent of the then replacement value of the Premises and/or the building in which the Premises are a part from any cause whether or not covered by the insurance described in subsection (a) above, LESSOR'S may, its option, elect to terminate this Lease (whether or not the Premises are destroyed) so long as LESSOR'S termination leases of all other LESSEES in the building of which the Premises are a part, effective as of the date of such damage or destruction.

18. **INSURANCE; INDEMNITY.**

(A) **Fire & Property Insurance.**

LESSEE shall pay at its cost shall maintain during the term of this Lease on the Premises a policy or policies of standard fire and extended coverage insurance to the extent of at least ninety (90%) percent of full replacement value thereof. Said insurance policies shall be issued in the names of LESSOR and LESSEE, as their interests may appear.

LESSEE at its cost shall maintain during the term of this Lease on all its personal property, LESSEE'S improvements, and alterations in or about the Premises, a policy of standard fire and extended coverage insurance, with vandalism and malicious endorsements, to the extent of their full replacement value. The proceeds from any such policy shall be used by LESSEE for the replacement of personal property or the restoration of LESSEE'S improvements or alterations.

(B) **Liability Insurance.**

LESSEE and LESSOR shall, each at its own expense, maintain a policy or policies of comprehensive general liability insurance with respect to the particular activities of each in the Building with the premiums thereon fully paid on or before due date. Such insurance policy shall be issued by and binding upon an insurance company approved by LESSOR, and shall afford minimum protection of not less than \$1,000,000 combined single limit coverage of bodily injury, property damage or combination thereof. LESSEE shall provide LESSOR with current Certificates of Insurance evidencing LESSOR'S compliance with this Paragraph.

Both public liability insurance and property damage insurance shall insure performance by LESSEE of the indemnity provisions in subsection (d) below, but the limits of such insurance shall not, however, limit the liability of LESSEE

hereunder. Both LESSOR and LESSEE shall be named as additional insured, and the policies shall contain cross-liability endorsements. If LESSEE shall fail to procure and maintain such insurance the LESSOR may, but shall not be required to, procure and maintain same at the expense of LESSEE and the cost thereof, together with interest thereon at a rate equal to the lesser of the then highest lawful rate or 6.0% per annum shall become due and payable as additional rental to LESSOR together with LESSEE'S next rental installment.

(C) **Waiver of Subrogation.**

LESSEE and LESSOR each waives any and all rights of recovery against the other, or against the officers, employees, agents, and representatives of the other, for loss of or damage to such waiving party or its property or the property of others under its control, where such loss or damage is insured against under any insurance policy in force at the time of such loss or damage. Each party shall cause each insurance policy obtained by it hereunder to provide that the insurance company waives all right of recovery by way of subrogation against either party in connection with any damage covered by any such policy.

(D) **Hold Harmless.**

LESSEE shall indemnify and hold LESSOR harmless from and against any and all claims arising from LESSEE'S use or occupancy of the Premises or from the conduct of its business or from any activity, work, or things which may be permitted or suffered by LESSEE in or about the Premises including all damage, costs, attorney's fees, expenses and liabilities incurred in the defense of any claim or action or proceeding arising therefrom. Except for LESSOR'S willful or grossly negligent conduct, LESSEE hereby assumes all risk of damage to property or injury to person in or about the Premises from any cause, and LESSEE hereby waives all claims in respect thereof against LESSOR.

19. **CONDEMNATION.**

If the Premises or any portion thereof are taken by the power of eminent domain, or sold to a governmental agency by LESSOR under the threat of exercise of said power (all of which is herein referred to as condemnation), this Lease shall terminate as to the part so taken as of the date the condemning authority takes title or possession, whichever occurs first. If more than ten (10%) percent of the floor area of any buildings on the Premises, or more than ten (10%) of the land area of the Premises not covered with buildings, is taken by condemnation, either LESSOR'S or LESSEE may terminate this Lease as of the date the condemning authority takes possession by notice in writing of such election within twenty (20) days after LESSOR'S shall have notified LESSEE of such taking or, in the absence of such notice, then within twenty (20) days after the condemning authority shall have taken possession.

Rent shall be abated or reduced during the period from the date of taking until the completion of restoration by LESSOR, but all other obligations of LESSEE under this

Lease shall remain in full force and effect. The abatement or reduction of the rent shall be based on the extent to which the restoration interferes with LESSEE'S use of the Premises.

All awards for the taking of any part of the Premises or any payment made under the threat of the exercise of the power of eminent domain shall be the property of the LESSOR, whether made as compensation for the diminution of the value of the leasehold or for the taking of the fee or as severance damages; provided, however, that LESSEE shall be entitled to any award for loss or damage to LESSEE'S trade fixtures and removable personal property.

20. SURRENDER

On the last day of the term hereof, or on any sooner termination, LESSEE shall surrender the Premises to LESSOR in good condition, broom clean, ordinary wear tear accepted. LESSEE shall repair any damage to the Premises occasioned by its use thereof, or by the removal of LESSEE'S trade fixtures, furnishings and equipment which repair shall include the patching and filling of holes and repair of structural damage LESSEE shall remove all its personal property and fixtures on the Premises prior to the expiration of the term of this Lease and if required by LESSOR pursuant to section 16, any alterations, improvements or additions made by LESSEE to the Premises. If LESSEE fails to surrender the Premises to LESSOR on the expiration of the Lease as required by this section, LESSEE shall hold LESSOR harmless from all damages resulting from LESSEE'S failure to vacate the Premises, including, without limitation, claims made by any succeeding LESSEE resulting from LESSEE failure to surrender the Premises.

21. HOLDING OVER

If the LESSEE, with the LESSOR'S consent, remains in possession of the Premises after the expiration or termination of the term of this Lease, such possession by LESSEE shall be deemed to be a tenancy from month-to-month at a rental in the amount of the last monthly rental plus all other charges payable hereunder, upon all the provisions of this Lease applicable to month-to-month tenancy.

22. ADDENDUM

Any addendum describing the parties tenant improvement plan that is either signed or initialed by the parties shall be deemed a part hereof and shall supersede any conflicting terms contained in this Lease.

23. SUBORDINATION

This Lease, at LESSOR'S option, shall be subordinate to all existing and future liens and encumbrances against the Premises.

Notwithstanding any such subordination, LESSEE'S right to quiet possession of the Premises shall not be disturbed if LESSEE is not in default and so long as LESSEE shall pay the rent and observe and perform all the other provisions of this Lease, unless this

Lease is otherwise terminated pursuant to its terms.

If any mortgagee, trustee, or ground LESSOR shall elect to have this Lease prior to the lien of its mortgage or deed of trust or ground lease, and shall give written notice thereof to LESSEE, this Lease shall be deemed prior to such mortgage, deed of trust or ground lease, whether this Lease is dated prior to or subsequent to the date of such mortgage, deed of trust or ground lease, or the date of recording thereof. LESSEE agrees to execute any documents requiring to affect such subordination or to make this Lease prior to the lien of any mortgage, deed of trust, or ground lease, as the case may be, and failing to do so within (10) days after written demand from LESSOR does hereby make, constitute and irrevocably appoint LESSEE as LESSEE'S attorney in fact and in LESSEE'S name, place and stead to do so.

24. **DEFAULT.**

(A) **Events of Default.**

The occurrence of any one or more of the following events shall constitute a default and breach of this Lease by LESSEE

- (1) Failure to pay rent when due, if the failure continues for the period specific under applicable State law after written notice has been given to LESSEE.
- (2) Abandonment and vacation of the Premises (failure to occupy the Premises for fourteen (14) consecutive days shall be deemed an Abandonment and vacation.
- (3) Failure to perform any other provision of this Lease if the failure to perform is not cured within thirty (30) days after written notice thereof has been given to LESSEE by LESSOR. If the default cannot reasonably be cured within said thirty (30) day period, LESSEE shall not be in default under this Lease if LESSEE commences to cure the default within the thirty (30) day period and diligently prosecutes the same to completion.

(B) **Lessor's Remedies.**

The LESSOR shall have the following remedies if LESSEE commits a default under this Lease. These remedies are not exclusive but are cumulative and in addition to any remedies now or hereafter allowed by applicable State law.

LESSOR can continue this Lease in full force and effect, and the Lease will continue in effect so long as LESSOR does not terminate LESSEE'S right to possession, and the LESSOR shall have the right to collect rent when due. During the period that LESSEE is in default, LESSOR can enter the Premises and relief them, or any part of them, to third parties for LESSEE'S account. LESSEE shall be liable immediately to the LESSOR for all costs the LESSOR incurs in reletting the Premises, including, without limitation, brokers' commissions, expenses of

remodeling the Premises required by the reletting, and like costs. Reletting can be for a period shorter or longer than the remaining term of this Lease. LESSEE shall pay to LESSOR the rent due under this Lease on the date the rent is due, less the rent LESSOR receives from any reletting. No act by LESSOR allowed by this section shall terminate this unless LESSOR notifies LESSEE that LESSOR elects to terminate this Lease. After LESSEE'S default and for so long as LESSOR has not terminated LESSEE'S right to possession of the Premises, if LESSEE obtains LESSOR'S consent, LESSEE shall have the right to assume or sublet its interest in the Lease, but LESSEE shall not be released from liability. LESSOR'S consent to the proposed assignment or subletting shall not be unreasonably withheld. If LESSOR elects to relet the Premises as provided in this section, any rent that LESSOR receives from such reletting shall apply first to the payment of any indebtedness from LESSEE to LESSOR other than the rent due from LESSEE to LESSOR; secondly, to all costs, including maintenance, incurred by LESSOR in such reletting; and third, to any rent due and unpaid under this Lease. After deducting the payments referred to in this section, any sum remaining from the rent LESSOR receives from such reletting shall be held by LESSOR and applied in payment of future rent as rent becomes due under this Lease. In no event shall LESSEE be entitled to any excess rent received by LESSOR. If, on the date rent is due under this Lease, the rent received from the reletting is less than the rent due on that date, LESSEE shall pay to LESSOR, in addition to the remaining rent due, all costs, including maintenance, that LESSOR shall have incurred in reletting that remain after applying the rent received from reletting as provided in this section.

LESSOR can, at its option, terminate LESSEE'S right to possession of the Premises at any time. No act by LESSOR other than giving written notice to LESSEE shall terminate this Lease. Acts of maintenance, efforts to relet the Premises, or the appointment of a receiver on LESSOR'S initiative to protect LESSOR'S interest in this Lease shall not constitute a termination of LESSEE'S right to possession. In the event of such termination, LESSOR has the right to recover from LESSEE.

- (1) The worth, at the time of the award, of the unpaid rent that had been earned at the time of the termination of this Lease.
- (2) The worth, at the time of the award, of the amount by which the unpaid rent that would have been earned after the date of the termination of this Lease until the time of the award exceeds the amount of the loss of rent that LESSEE proves could have been reasonably avoided;
- (3) The worth, at the time of the award, of the amount by which the unpaid rent for the balance of the term after the time of the award exceeds the amount of the loss of rent that LESSEE proves could have been reasonably avoided; and

- (4) Any other amount, including court costs, necessary to compensate LESSOR, for all detriment directly or indirectly caused by LESSEE'S default. The worth at the time of the award, as used in (1) and (2) of this section is to be computed by allowing interest at the maximum rate an individual is permitted by law to charge. "The worth at the time of the award," as referred to in (3) of this section is to be computed by discounting the amount at the discount rate of the Applicable Federal Reserve Bank at the time of the award, plus one (1%) percent.

If LESSEE is in default under the terms of this Lease, LESSOR shall have the additional right to have a receiver appointed to collect rent and conduct LESSEE'S business. Neither the filing of a petition for the appointment of a receiver nor the appointment itself shall constitute an election by LESSOR to terminate this Lease.

LESSOR at any time after LESSEE commits a default can cure the default at LESSEE'S cost and expense. If LESSOR at any time, by reason of LESSEE'S default, pays any sum or does any act that requires the payment of any sum, the sum paid by LESSOR shall be due immediately from LESSEE to LESSOR at the time the sum is paid, and if paid at a later date shall bear interest at the maximum rate an individual is permitted to charge from the date the sum is paid by LESSOR until LESSOR is reimbursed by LESSEE. The sum, together with interest thereon, shall be considered additional rent.

25. LESSOR'S LIABILITY.

The term "LESSOR" as used in this Lease shall mean only the owner or owners at the time in question of the fee title or a LESSEE'S interest in a ground lease of the Premises, and in the event of any transfer of such title or interest, LESSOR herein named (and in case of any subsequent transfers to the then successor) shall be relieved from and after the date of such transfer of all liability in respect to LESSOR'S obligations thereafter to be performed. The obligations contained in this Lease to be performed by LESSOR shall be binding upon the LESSOR'S successors and assigns, only during their respective periods of ownership.

26. PARKING.

During the term of this Lease, LESSEE shall have the non-exclusive use in common with LESSOR, other tenants of the Building, their guests and invitees, of the non-reserved common automobile parking areas, driveways, and footways, subject to rules and regulations for the use thereof as prescribed from time to time by LESSOR. LESSOR reserves the right to designate parking areas for LESSEE and LESSEE'S agents and employees. LESSEE shall provide LESSOR with a list of all license numbers for the cars owned by LESSEE, its agents and employees.

27. COMMON AREA EXPENSES.

In the event the Premises are situated in a shopping center or in a commercial building or

in a commercial development in which there are common areas, LESSEE agrees to pay his pro-rata share of maintenance, taxes and insurance for the common areas if such costs are not already included in the rent.

28. LESSEE'S RIGHT TO CURE LESSOR'S DEFAULT.

In the event that LESSOR shall fail, refuse or neglect to pay any mortgages, liens or encumbrances, the judicial sale of which might affect the interest of LESSEE hereunder, or shall fail, refuse or neglect to pay any interest due or payable on any such mortgage, lien or encumbrance, LESSEE may pay said mortgages, liens or encumbrances, or interest or perform said conditions and charge to LESSOR the amount so paid and withhold and deduct from any rents herein reserved such amounts so paid, and any excess over and above the amounts of said rents shall be paid by LESSOR to LESSEE.

29. NOTICES.

Whenever under this Lease a provision is made for any demand, notice, or declaration of any kind, it shall be in writing and served either personally or sent by registered or certified United States mail, postage prepaid, addressed at the addresses set forth below:

TO LESSOR AT:

Attn: Stuart Hays  
Foster City Medical Center, LP  
One California St., Suite 2800  
San Francisco, CA 94111

TO LESSEE AT:

E. "Mike" Carmichael  
Carmichael & Associates, Inc.  
1261 East Hillsdale Blvd.  
Foster City, CA 94404

\* Such notices shall be deemed to be received within forty-eight (48) hours from the time of mailing, if mailed as provided for in this section.

30. ATTORNEYS FEES.

If either party commences an action (litigation, mediation, or arbitration) against the other party arising out of or in connection with this Lease, the Premises, or the building or other improvements in which the Premises are located, the prevailing party shall be entitled to have and recover from the losing party reasonable attorney's fees and costs of suit.

31. CONSENT.

LESSOR shall not unreasonably withhold or delay consent with respect to any matter for which the LESSOR'S consent is required or desirable under this lease.

32. BROKERS.

Tenant represents that, except for Mike Jones as agent for Westcon Properties acting as Lessor's Broker only (for whom Lessor is solely responsible for Lessee's brokerage fees), Tenant was not shown the Premises by any real estate broker or agent and that Tenant has not otherwise engaged in, any activity which could form the basis for a claim

for real estate commission, brokerage fee, finder's fee or other similar charge, in connection with this Lease.

33. **SINGULAR AND PLURAL.**

When required by the context of this Lease, the singular shall indicate the plural.

34. **COVENANTS AND CONDITIONS.**

Each provision of this Lease performable by LESSEE shall be deemed both a covenant and a condition.

35. **BINDING ON SUCCESSORS AND ASSIGNS.**

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

36. **CHOICE OF LAW.**

This Lease shall be governed by the laws of the State where the Premises are located.

37. **JOINT AND SEVERAL OBLIGATIONS.**

"Party" shall mean LESSOR and LESSEE; and if more than one person or entity is the LESSOR or LESSEE, the obligations imposed on that party and several.

38. **WAIVERS.**

No waiver by LESSOR of any provision hereof shall be deemed a waiver of any other provision hereof or of any subsequent breach by LESSEE of the same or any other provision. LESSOR'S consent to or approval of any act shall not be deemed to render unnecessary the obtaining of LESSOR'S consent to or approval of any subsequent act by LESSEE. The acceptance of rent hereunder by LESSOR shall not be a waiver of any preceding breach by LESSEE of any provision hereof, other than the failure of LESSEE to pay the particular rent so accepted, regardless of LESSOR'S knowledge of such preceding breach at the time of its acceptance of such rent.

39. **TIME.**

Time is of the essence of this lease.

40. **HEADINGS.**

The headings used in this Lease are for convenience of the parties only and shall not be considered in interpreting the meaning of any provision of this Lease.



41. SEVERABILITY.

The unenforceability, invalidity, or illegality of any provision of this Lease shall not render the other provisions hereof unenforceable, invalid or illegal.

42. ENTIRE AGREEMENT.

This lease contains the entire agreement between LESSEE and LESSOR relating to the leasing of the demised premises. No representation, which is not incorporated herein, shall be binding upon LESSOR, and all representations which have been made are incorporated herein or, if not so incorporated, shall be deemed to have been waived by LESSEE. All preliminary negotiations between the parties are merged into, and superseded by, the provisions of this lease.

This Lease may be modified only in writing, and signed by the parties in interest at the time of such modification.

This lease shall not be enforceable until executed by both LESSEE and LESSOR.

THE PARTIES HERETO HAVE EXECUTED THIS LEASE ON THE DATE FIRST ABOVE WRITTEN.

FOSTER CITY MEDICAL CENTER, LP

CARMICHAEL & ASSOCIATES, INC.

By:   
Name: S. J. Hays  
Its: Managing Partner

By:   
Name: E. "Mike" Carmichael  
Its: CEO

## **EXHIBIT B**

### **Premises**



## **EXHIBIT C**

### **Master Lessor's Consent**

**MASTER LANDLORD'S CONSENT**

**of**

**Foster City Medical Center, LLC**  
**as master landlord, (the "Master Landlord")**

to

the Sublease dated for reference purposes as of January 1, 2007  
(the "**Sublease**")

between

**Carmichael and Associates, Inc.,**  
as sublandlord (the "**Sublandlord**"),

and

**County of San Mateo, a Political Subdivision of the State of California,**  
as subtenant (the "**Subtenant**")

The undersigned (the "**Master Landlord**") as of this 1<sup>st</sup> day of January 2007 hereby consents to the subleasing by the Sublandlord to the Subtenant of the premises referred to in the Sublease (the "**Premises**") for the term provided for in the Sublease, subject to the terms and conditions of this

Capitalized terms used but not defined in this Consent shall have the meanings ascribed thereto in the Sublease. As used in this Consent, the term "**Master Lease**" shall mean that certain **Amended and Restated Commercial Lease dated August 3, 2005**, between Master Landlord, as landlord, and Sublandlord, demising the Master Lease Premises, as heretofore and hereafter amended.

1. This Consent relates to the act of subleasing, not to the terms and conditions of the Sublease, and Master Landlord shall not be bound by the terms and conditions of the Sublease. The Sublease is and shall be subject and subordinate to the Master Lease, and Subtenant shall not do or permit to be done any act or thing which shall violate the Master Lease.

2. Subtenant shall have no recourse against Master Landlord on account of any failure by Master Landlord to perform any of its obligations under the Master Lease. Subtenant's only recourse shall be against Sublandlord.

3. Notwithstanding the subletting consented to herein, Sublandlord shall be and remain fully liable for payment of the rent, additional rent and all other sums to become due under the Master Lease and for the performance of all of the Sublandlord's obligations under the Master Lease. All acts and omissions of Subtenant or anyone claiming under Subtenant which shall be in violation of the Master Lease shall be deemed a violation by Sublandlord.

4. Master Landlord shall cause to be included in each of its property insurance policies (including rent loss insurance) a waiver of the insurer's right of subrogation against Subtenant, and Master Landlord hereby releases Subtenant from any claim (including a claim for negligence) which Master Landlord might otherwise have for loss, damage or destruction to Master Landlord's property occurring during the term of the Sublease (including loss of rents) to the extent to which such loss, damage or destruction is insured by Master Landlord or is required by the Master Lease to be insured by Master Landlord.

5. Sublandlord and Subtenant (jointly and severally) agree to indemnify Master Landlord against any claim for any commission or other compensation in connection with the Sublease made against Master Landlord by any broker, agent or finder with whom Sublandlord or Subtenant has dealt or is claimed to have dealt in connection with the Sublease and all costs, expenses and liabilities in connection therewith, including reasonable attorneys' fees and disbursements incurred by Master Landlord in the defense of such claim.

6. If there is any conflict between the terms and conditions of the Sublease and of this Consent, the terms and conditions of this Consent shall prevail in each instance.

7. Sublandlord and Subtenant represent that (a) attached to this Consent is a true and complete copy of the Sublease, and (b) the Sublease and this Consent constitute the sole agreements between them relating to the subletting of the Sublease Premises by Sublandlord to Subtenant.

8. This Consent may not be changed orally, but only by an agreement in writing signed by Master Landlord, Sublandlord and Subtenant.

9. This Consent may be executed in counterparts and shall not be effective for any purpose, and may be withdrawn by Master Landlord, until a counterpart hereof executed by Sublandlord and Subtenant is returned to Master Landlord.

IN WITNESS WHEREOF, Master Landlord, Sublandlord and Subtenant have each executed this Consent as of the day and year first above written.

**Foster City Medical Center, LLC**  
(a California Limited Liability Company)

By: 

Name: Stuart Hays

Title: CEO

Accepted and Agreed To By:

**Carmichael and Associates, Inc.**  
(a California Corporation)

By:  1/5/07

Name: E. "Mike" Carmichael

Title: CEO

**COUNTY OF SAN MATEO, a Political Subdivision**  
**of the State of California**

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

Name: John Maltbie

Its: County Manager