

**RESOLUTION NO.: R-2018-089**

*Authorizing the City Manager to execute a Sublease Agreement with  
Celia Saxon Shopping Center, LLC for the lease of Suite 110 and Suite 112  
2012 Harden Street for the City Health Center*

ORIGINAL  
STAMPED IN RED

BE IT RESOLVED by the Mayor and City Council this 4th day of September, 2018, that the City Manager is authorized to execute the attached Sublease Agreement for the City Health Center, or in a form to be approved by the City Attorney, between the City of Columbia and Celia Saxon Shopping Center, LLC for lease of Suite 110 and Suite 112 2012 Harden Street Celia Saxon Shopping Center for the terms and conditions therein contained.

(Funding code: 6048920)

Requested by:

City Manager \_\_\_\_\_

  
\_\_\_\_\_  
Mayor

Approved by:

  
\_\_\_\_\_  
City Manager

Approved as to form:

  
\_\_\_\_\_  
City Attorney

ATTEST:

  
\_\_\_\_\_  
City Clerk

Introduced: 9/4/2018  
Final Reading: 9/4/2018

# ORIGINAL

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF RICHLAND )

SUBLEASE AGREEMENT  
(Resolution R-2018-089)

**THIS SUBLEASE AGREEMENT** is made by and between Celia Saxon Shopping Center LLC, a South Carolina Corporation, (hereinafter, "Landlord"), and The City of Columbia, South Carolina, (hereinafter, "Tenant").

## W I T N E S S E T H :

**WHEREAS**, the above-stated parties desire to enter into an agreement whereby Tenant shall rent from Landlord certain premises set forth below; and,

**WHEREAS**, the Parties desire to set forth their rights and remedies regarding the demised property; and,

**NOW, THEREFORE**, for and in consideration of Tenant's payments of rent and the mutual covenants and promises contained herein, the Parties hereby agree as follows:

### **ARTICLE 1. SUBLEASED PREMISES**

1.1 Subleased Premises. Subject to all the terms and conditions of this SubLease, Landlord has demised and Subleased, and hereby confirms such demise and Sublease to Tenant, and Tenant has hired and Subleased, and hereby confirms such hire and Sublease from Landlord, the land not less than 3297 square feet in the Subleased Premises being shown and outlined on the site plan attached hereto as Exhibit "A". The Subleased Premises is situated within the Celia Saxon Shopping Center, constructed by Landlord as herein provided, at the northeastern corner of the intersection of Harden Street with Walker Solomon Way in Columbia, South Carolina. The term Shopping Center as used herein shall mean and refer to the land Subleased by Landlord from the Authority, together with the buildings and other structures from time to time thereon. For the purpose of this document, the Subleased Premises shall extend to the exterior faces of all walls or to the building line where there is no wall, or to the center line of those walls separating the Subleased Premises from other leased premises in the Shopping Center, together with the appurtenances specifically granted in this SubLease, but reserving and accepting to Landlord the use of the exterior walls and the roof and the right to install, maintain, use, repair and replace pipes, ducts, conduits and wires leading through the Subleased Premises in locations which will not materially interfere with Tenant's use thereof and serving other parts of the Shopping Center. Tenant's address in the Shopping Center is 2012 Harden Street, Suite 110 and 112 Columbia, S.C. 29204. Tenant recognizes and agrees that, the "Common Area" (or "Common Areas") is the part of the Shopping Center, not occupied by buildings and made available for the non-exclusive use of all tenants, and their customers, employees and invitees, including among other facilities, parking area, sidewalks, landscaping, curbs, loading areas, private streets and alleys, lighting facilities, hallways, malls, restrooms, roofs, exterior wall surfaces and other areas and improvements provided by Landlord for the common use of all tenants, all of which shall be subject to Landlord's management and control. Tenant's use of the Common Area, shall be in harmony hereof, and Tenant's right to the Common Area shall be non-exclusive and reasonable and reasonably restricted and limited by Landlord, as solely determined by Landlord, and Tenant shall make no extraordinary use of the Common Area, nor utilize advertising, without the advance written approval of the Landlord (for the purposes of this provision, "Tenant" means, Tenant's concessionaires, officers, employees, agents, customers and invitees).

1.2 Permitted Encumbrances. Ad Valorem taxes for 2012 and subsequent years are permitted encumbrances; provided, however, the rent for the year in which the SubLease begins shall be prorated based upon the period of occupancy of the Tenant for that year;

## ARTICLE 2. TERM

2.1 Term. Commencing on the "Commencement Date" as July 1, 2018, hereinafter defined and ending one (1) year thereafter, except that in the event the Commencement Date is a day other than the first day of a calendar month, said term shall extend for said number of years in addition to the remainder of the calendar month following the Commencement Date (the "Initial Term"). Tenant has the option to renew this SubLease for an additional term of one (1) year ("First Renewal Term") under the same terms and conditions as exist at the end of the initial Term except that the Basic Rent (as defined hereafter) shall increase by an additional ten (10%) percent for the duration of the First Renewal Term. To exercise its renewal option, Tenant shall deliver in writing to Landlord a notice of such election no later than ninety (90) days prior to the termination of the initial Term to exercise the First Renewal Term. Access prior to the Commencement of the Term, shall be arranged by consultation with Landlord. Each party shall have the right to terminate this Agreement, with or without cause, by providing ninety (90) days written notice.

2.2 Security Deposit. Prior to or contemporaneous with the Commencement Date, Tenant shall deposit with the Landlord the amount of Five Thousand and No/100 (\$5,000.00) Dollars ("Security Deposit"). Tenant agrees that the Security Deposit may be deposited into an operating account of Landlord and utilized by Landlord for the operation of the Premises. The Security Deposit is to be refunded to Tenant upon vacating the Premises at the expiration of the SubLease, or any renewal hereof, if the Tenant is not then in default and the premises are returned to the Landlord are in, "broom clean" condition, with no waste committed. In no event, may the Security Deposit be deemed by, or utilized by, Tenant to be available to offset Rent or Additional Rent, or any monies due to Landlord under this SubLease

2.3 Delivery of Premises. On or before the Commencement Date, Landlord shall have completed the following at its sole cost and expense:

- a. Provide Tenant with an HVAC inspection letter from a licensed and bonded contractor attesting that the HVAC system currently in use at the Premises is in proper working condition; and,
- b. Prepared the Premises then delivered the Premises to Tenant in broom-clean condition.

2.4 Holding Over. At any expiration or cancellation of this SubLease, should Tenant hold over for any reason, it is hereby agreed that, in the absence of a written agreement to the contrary, such tenancy shall be from month to month only on the same terms hereof, with the rent escalation set forth herein.

2.5 Return of Premises. Tenant shall, on the last day of the term, or upon sooner termination of the Term, or Renewal Term hereof, peaceably and quietly surrender the Premises to Landlord in as good condition and repair as at the Commencement Date, and shall also surrender any new buildings, structures, replacements or additions, or improvements constructed, erected, added, or placed thereon, with normal wear and tear excepted.

## ARTICLE 3. RENT

3.1 Basic Rent/Common Area Costs. During the One Year Term, the Fixed Rent shall be based on a fee of approximately \$12.50 per square foot of leased space in the Shopping Center or \$3,424.00 per month or \$41,088 per year. At the end of the Term, the parties will negotiate the Fixed Rent for any additional Extension Term at least 180 days, but no more than 270 days prior to the expiration of the Initial Term. For any Renewal Term, the Rental payments due to the Landlord shall escalate by ten percent (10%), consistent with provision 2.1 herein. The Fixed Rent for a Fractional Month (if any) shall be apportioned on a per diem basis, calculated on the basis of a thirty (30)-day month, and shall be payable upon the commencement of the Lease Term. Common Area Costs- In addition to the monthly Fixed Rent, there will be an additional cost of approximately \$3.74 per square foot of the leased space for the Cost of the Common Area Maintenance, otherwise specified herein, Tenant shall pay to Landlord a contribution towards "common area maintenance" such sum payable in equal monthly installments in advance on the first day of each month during the Lease Term. Tenant's Pro Rata Share shall be based upon the reasonably estimated annual cost of operation and maintenance of the Common Area. This cost for the above mentioned Subleased space is approximately \$3.74 per square foot x 3297 square feet, or \$12,324.00 per year or \$1,027 per month for the duration of the SubLease.

3.2 Additional Rent. In addition to the Basic Rent provided for above, Tenant shall pay to Landlord as additional rent ("Additional Rent") all amounts as set forth throughout this SubLease. A default in payment of Additional Rent by Tenant shall give Landlord the right to exercise the same remedies as for a default in the payment of Basic Rent.

3.3 Payment of Rent. All Basic and Additional Rent is due and payable in advance on the tenth (10<sup>th</sup>) day of each calendar month (or, as to invoiced Additional Rent, within ten (10) days after receipt of written demand) and is to be paid to Landlord. In the event that any installment of Basic Rent, Additional Rent, or other sums payable hereunder by Tenant to Landlord are not paid on the due date, Tenant shall pay, in addition to such unpaid installment, a late payment penalty of Fifty (\$50.00) Dollars for each day said rent is in arrears beginning on the first (1<sup>st</sup>) day after said rent is due, or the highest interest rate permitted by law in the event the Fifty (\$50.00) Dollar late payment penalty is deemed invalid by a Court of competent jurisdiction.

3.4 Net SubLease. The Basic Rent provided for herein shall be in addition to and over and above all other charges, expenses, costs, impositions, utilities, insurance, and other payments whatsoever to be made by Tenant under this SubLease as more fully described herein.

#### ARTICLE 4. USE AND OPERATION

4.1 Permitted Uses. During the Term of this SubLease, the Premises may only be used for, lawful purposes, which for this SubLease is said to be, a Medical and Wellness Center to be operated by an independent contractor engaged by the City of Columbia to provide medical, pharmaceutical and wellness services to current City employees, City retirees and dependents, (hereinafter, "Medical and Wellness Center").

4.2 Prohibited Uses. Tenant shall not use, occupy, suffer, or permit the Premises or any part thereof to be used in any manner which would in any way: (a) violate any statute, ordinance, law, or regulation affecting the Premises, (b) make void, voidable, or unobtainable any insurance coverage required by this SubLease to be maintained by Tenant, (c) constitute a public or private nuisance, or (d) cause Tenant to default in any of its other obligations under this SubLease.

4.3 Leaving Premises Unoccupied. Tenant shall have the right, at any time, to leave the Premises unoccupied; provided that during any such period that the Premises is unoccupied, Tenant shall still be responsible for the Premises and all contents thereof, and Tenant shall not during any such period be released from its obligations under this SubLease, both financial and custodial. The Landlord acknowledges that the City is self-insured, which consists solely of the protection and rights provided to City under the South Carolina Tort Claims Act. The currently effective limitations on liability under said Act are set forth in Section 15-78-120 of the Code of Laws of South Carolina 1976, as amended.

4.4 Compliance with Laws, Ordinances and Regulations. The use of the Premises will be a permitted use under all applicable statutes, codes, rules, regulations, and ordinances. Landlord represents and warrants to Tenant that the Premises shall at all times comply with all applicable laws governing its use and occupancy. Landlord shall at Landlord's sole expense, promptly comply with and carry out all orders, requirements, or conditions now or hereafter imposed upon Landlord or Tenant by the ordinances, laws, and/or regulations of any Governmental authorities, as may apply to the Premises. If during the term of this SubLease the application of any statute, code, or ordinance of any government authority, agency, official, or officer applicable to the Premises makes it impossible or not economical for Tenant to operate in the Premises, then Tenant, at its option, may terminate this SubLease, whereupon the Basic Rent and Additional Rent and all other charges payable hereunder by Tenant shall be apportioned as of such date of termination, and all monies owed to Landlord are immediately due and payable.

#### ARTICLE 5. ASSIGNMENT AND SUBLETTING

5.1 Assignment and Subletting. Provided Tenant is not in default hereunder, Tenant may seek a written approval from the Landlord to assign this SubLease and/or make subleases of all or any portion of

the Premises. Any permitted assignee/subtenant may use the Premises for any lawful purpose permitted by this SubLease. Landlord may assign this SubLease and all rights hereunder provided Tenant's use and enjoyment of the Premises during the term of this SubLease is not disturbed.

## ARTICLE 6. STRUCTURAL ALTERATIONS AND REPAIRS

6.1 Structural and Non-Structural Alterations. Tenant may make reasonable structural and reasonable non-structural alterations, installations, substitutions, decorations, and improvements ("Tenant Improvements") in and to the Premises as Tenant may reasonably desire to adapt the Premises to Tenant's business purposes. Each such Tenant Improvement shall be completed in accordance with all applicable codes, rules, and regulations. Tenant shall not exercise the right and privilege granted by this Article in such manner as to damage permanently the structural qualities of the building. Tenant may make such additions, improvements, or alterations to the Premises at its sole cost and expense. Tenant shall not permit mechanics liens to become attached or remain on the Subleased premises, and Tenant is solely responsible for the same.

6.2 Fixtures and Personal Property. Landlord agrees that all trade fixtures, partitions, shelves, signs, machinery, equipment, furniture, or other personal property of whatever kind or nature kept or installed at the Premises by Tenant shall not become the property of Landlord or a part of the realty no matter how affixed to the Premises and may be removed by Tenant at any time and from time to time during the Term and any renewal thereof, only if any such removal causes no damage to the Premises. At the expiration or sooner termination of this SubLease, or any renewal thereof, Tenant shall remove any and all trade fixtures, partitions, shelves, signs, machinery, equipment, furniture, or other personal property of whatever kind or nature, and repair all damage done to the Premises by such removal; natural wear and tear, damage by storm, fire, flood, lightning, or other natural casualty excepted.

6.3 Landlord's Obligation for Maintenance. During the full term of this SubLease and any renewal thereof, the Landlord shall reasonably maintain the roof, exterior walls, foundations, underground utilities leading to the Premises, and other structural portions of the Premises at Landlord's expense. So long as Tenant maintains an annual service maintenance agreement on the HVAC system, Landlord shall be responsible for any and all costs of repair, maintenance, installation, and replacement of the HVAC system greater than One Thousand, Five Hundred and No/100 (\$1,500.00) Dollars incurred per calendar year. For avoidance of doubt, all repairs, replacements, and renewals shall be equal in quality and class to the original work.

## ARTICLE 7. ENVIRONMENTAL MATTERS

7.1 Releases. Tenant represents and warrants to Landlord that during the term of this SubLease no hazardous waste (as that term is defined in state or federal law) or substance which is harmful to the environment will be generated, treated, stored, processed, or disposed on the Premises, except in full compliance with all local, state, federal laws, ordinances, and regulations. Landlord represents, as of the Commencement Date, to the best of its knowledge (a) none of the buildings or other structures on the Premises contain asbestos nor have asbestos-containing materials and (b) that no hazardous waste, materials or substances, as defined by applicable federal, state or local law have been heretofore disposed of on the Premises and that no other environmental hazards exist on the Premises.

## ARTICLE 8. INSURANCE

8.1 Insurance by Tenant. The Landlord acknowledges that the City is self-insured, which consists solely of the protection and rights provided to City under the South Carolina Tort Claims Act. The currently effective limitations on liability under said Act are set forth in Section 15-78-120 of the Code of Laws of South Carolina 1976, as amended.

## ARTICLE 9. TAXES AND ASSESSMENTS

9.1 Escrows for Taxes. Tenant agrees to remit to Landlord, concurrent with the payment of Basic Rent, an amount equal to 1/12 of the amount required to pay the current year's Ad Valorem taxes Ad

Valorem taxes and/or special assessments and cost of maintaining the common area of the Shopping Center are equal to Tenant's pro rata share, which shall be computed upon the ratio of the square feet of the Leased Premises to the total leaseable square footage of the Shopping Center, not to include the common area. The Parties agree to reconcile the amounts paid into escrow by Tenant with the actual tax bill at the end of each tax year. All such payments for taxes shall be remitted timely to the governmental entity by Landlord as Landlord shall be solely responsible for any fine, penalty, interest, cost, or imposition arising from a late payment or imposed by operation of law. Within ten (10) business days of Tenant's request, Landlord shall furnish to Tenant receipts for the payment of all taxes and assessments, or other evidence satisfactory to Tenant that such payments have been made by Landlord.

9.2 Tenant May Perform Landlord's Obligations. If Landlord shall, after ten (10) days of receiving notice of the overdue obligation, (a) fail to pay any tax or assessment; (b) fail to provide proof of payment as hereinabove required; or (c) fail to deliver any certificate as provided above; Tenant shall have the right, but shall not be obligated, to pay the Ad Valorem tax and/or assessment and all amounts so paid including, but not limited to, costs, penalties, and interest, shall be repaid to Tenant by Landlord immediately or Tenant may deduct such amounts from Basic and Additional Rent due to Landlord.

#### ARTICLE 10. UTILITIES AND MAINTENANCE CONTRACTS

10.1 Tenant to Pay. Tenant is responsible for the maintenance and replacement of locks and Tenant is responsible for the maintenance and replacement for all electric light bulbs, tubes and fixtures within or on the Subleased premises, and Tenant shall promptly pay, or cause to be paid, all proper charges for gas, electricity, cable or satellite heat, water, sewerage or plumbing costs, including the freezing thereof, and power for telephone, protective, and other communication services, removal of garbage and waste, (Tenant shall not permit or allow garbage or trash to accumulate on the Subleased premises), and for all other public or private utility services, which shall be used, rendered, or supplied on or in connection with the Premises, or any part thereof, at any time during the term of this SubLease.

#### ARTICLE 11. ACCESS TO PREMISES

11.1 Access. Subject to applicable Government security regulations, Tenant shall permit inspections of the Premises by Landlord, its agents or representatives, and by or on behalf of prospective purchasers or mortgagees of the Premises at reasonable times and for reasonable periods after reasonable notice to Tenant at any time during the term of this SubLease and shall permit Landlord access to make such repairs required hereunder by Landlord or repairs that Tenant shall fail to make. During the sixty (60) day period immediately preceding the expiration of the Initial Term or any renewal term, Tenant shall permit inspection of the Premises at reasonable times and for reasonable periods by or on behalf of prospective tenants. If at any time an entry shall be deemed necessary in the sole discretion of Landlord for the protection of the Premises, Landlord or Landlord's agents or representatives may enter the Premises for any such purpose. The provisions of this Article are not intended to create or increase, and are not to be construed as creating or increasing, any obligations of Landlord under this SubLease.

#### ARTICLE 12. DEFAULT AND REMEDIES

12.1 Events of Default by Tenant. The occurrence of any of the following events during the Term or any extension of this SubLease shall constitute a default hereunder and shall entitle Landlord to exercise all remedies available at law or equity including those hereinafter set forth:

- a. Failure of Tenant to make payment of any installment of the Basic Rent expressly reserved hereunder or any part of same within fifteen (15) days after receiving written notice that the same is overdue; or
- b. Failure of Tenant to make payment of any item of Additional Rent or any other charge required to be paid by Tenant hereunder or any part of same within fifteen (15) days after receiving written notice that the same is overdue; or
- c. Failure of Tenant to fulfill any of the covenants of this SubLease and to cure said default within thirty (30) days after written notice to Tenant to cure.
- d. After an Event of Default by Tenant, Landlord has the express right to remove and store any property, personal or otherwise then on the Subleased premises, with the Tenant being solely responsible for all costs of removal and storage of all items, and

Tenant being solely responsible for all claimed loss, damage or costs to any items removed from the Subleased premises.

12.2 Events of Default by Landlord. The occurrence of any of the following events during the Term or any extension of this SubLease shall constitute a default hereunder and shall entitle Tenant to exercise all remedies available at law or equity including those hereinafter set forth:

- a. Failure by Landlord to observe or perform any covenant, agreement, condition or provision required of Landlord pursuant to the terms and provisions of the SubLease which materially affects the use or habitability of the Premises and if such failure shall continue for thirty (30) days after receipt of written Notice from Tenant to Landlord specifying such failure; provided, however, if such default is of a nature that it can be cured and if Landlord in good faith commences to cure such default within such ten (10) day cure period, but due to the nature of such default it could not be cured within such cure period after due diligence, no default by Landlord shall be deemed to have occurred at the end of the cure period if Landlord is then diligently pursuing such cure to completion, and completes such cure as promptly as reasonably possible under all the circumstances; or
- b. Filing by Landlord or a filing against Landlord with regard to a petition or case under any section or chapter of the United States Bankruptcy Code, as amended, or under any similar law or statute of the United States or any state and such petition or case is not discharged within sixty (60) days.

12.3 Remedies of Landlord. In the event of default by Tenant, Landlord shall have all remedies available at law or equity including the following remedies; provided, however, Landlord's option to terminate this SubLease can only arise after Tenant's failure to cure such default following thirty (30) days written notice from Landlord of such default:

- a. In the event of a default described in subsections (a), (b), and (c) of Article 12.1 above, Landlord, at its option, may terminate this SubLease and, upon such termination, Tenant shall quit and surrender the Premises to Landlord, but Tenant shall remain liable as hereinafter provided.
- b. Upon the termination of this SubLease by reason of default by Tenant by summary proceedings or under any provision of law now, or at any time hereafter, in force by reason of, or based upon, or arising out of a default under, or breach of, this SubLease by Tenant, or upon Landlord's recovering possession of the Premises in the manner or in any of the circumstances hereinbefore mentioned or in any other manner or circumstances whatsoever, whether with or without legal proceedings, by reason of default under, or breach of, this SubLease by Tenant, Landlord shall use reasonable diligence to relet the Premises or such part or parts thereof as may be practicable for the account of Tenant or otherwise, and receive and collect the rents. Landlord shall apply the rent first to the payment of such reasonable expenses as Landlord may have incurred in recovering possession of the Premises (including legal expenses and attorney's fees) and in putting the Premises into good order or condition or preparing or altering the same for re-rental; second, to all other expenses, commissions, and charges paid, assumed, or incurred by Landlord in or about reletting the Premises; and third, to the fulfillment of the covenants of Tenant hereunder. Any such reletting herein provided for may be for the remainder of the term of this SubLease as originally granted, or for a longer or shorter period.
- c. In any such case, and whether or not the Premises or any part thereof is relet, Tenant shall pay to Landlord the Basic Rent and all other Additional Rent and other charges required to be paid by Tenant up to the time of such termination of this SubLease or of such recovery of possession of the Premises by Landlord, as the case may be. Thereafter, Tenant agrees to pay the equivalent of the amount of all the Basic Rent reserved herein and all Additional Rent and other charges required to be paid by Tenant, less the net proceeds of reletting available for application to Tenant's obligations, if any, and the Basic and Additional Rent shall be due and payable by Tenant to Landlord on the several rent days specified above, e.g., upon each of such rent days Tenant shall pay to Landlord the amount of the deficiency then existing.

12.4 Remedies of Tenant. In the event Landlord fails to repair any damage or perform any other action or obligation for which Landlord is responsible under this SubLease and fails to cure such default after fifteen (15) days of receiving notice of such failure and Tenant's intention to perform the same, Tenant shall have the right to perform such obligation and to receive reimbursement from Landlord of the reasonable costs associated therewith or deduct such reasonable costs from the amount of rent due. The rights described in this Article shall be deemed Tenant's "Self-Help Rights" and "Set-Off Rights". Notwithstanding any provision in this SubLease to the contrary, Tenant shall have all remedies available at law or equity in the event of default by Landlord of its obligations under this SubLease, provided, however, Tenant's option to terminate this SubLease can occur after Landlord fails to cure such default following thirty (30) days written notice from Tenant of such default.

12.5 All Defaults Deemed Material. All events of default contained herein, shall be deemed material in any type of termination proceeding in any Court of competent jurisdiction.

### ARTICLE 13. NOTICES

13.1 Notices. All notices, requests, approvals, consents, demands, or other communications shall be effective upon the first to occur of the following: (i) upon receipt by the Party to whom such notice, request, approval, consent, demand, or other communication is given; or (ii) three (3) business days after being duly deposited in the United States mail, certified or registered, return receipt requested, and addressed as follows:

If to Landlord: Celia Saxon Shopping Center  
1917 Harden Street  
Columbia, SC 29204  
Attention: Accounting Department

If to Tenant: City of Columbia  
P.O. Box 147  
Columbia, SC 29217  
Attention: City Manager

With a copy to: City of Columbia  
P.O. Box 667  
Columbia, SC 29202  
Attention: City Attorney

The Parties hereto may change their respective addresses by notice in writing given to the other party to this SubLease.

### ARTICLE 14. NON-DISTURBANCE, ATTORNMENT, AND QUIET ENJOYMENT

14.1 Non-Disturbance, Subordination, and Attornment. This SubLease and all rights of Tenant hereunder are and shall be subject in all respects to all mortgages of Landlord which may now or hereafter affect the Premises. Landlord under any such lease or the holder of any such mortgage shall, upon request, furnish to Tenant a Non-Disturbance Agreement in the form and substance reasonably satisfactory to Tenant.

14.2 Quiet Enjoyment. If and so long as Tenant shall pay the Basic Rent and Additional Rent provided for in this SubLease and shall perform and observe all the covenants and conditions contained herein on the part of Tenant to be performed and observed, Tenant shall quietly enjoy the Premises without any manner of hindrance, interruption, or molestation from Landlord or anyone claiming under Landlord, subject, however, to the terms of this SubLease and to the Permitted Encumbrances set forth in Section 1.2.

14.3 Estoppel Certificates. Tenant agrees that, at any time and from time to time upon not less than fifteen (15) days prior notice from Landlord, it shall execute, acknowledge, and deliver to Landlord a reasonable Estoppel Certificate certifying (i) that this SubLease is in full force and effect and unmodified, or if there have been modifications, stating such modifications; (ii) the dates to which Basic Rent has been paid and the then current amount of Basic Rent; (iii) that to the best knowledge of Tenant, Tenant is not



then in default under this SubLease or stating such defaults as may then exist; and (iv) such other information as Landlord may reasonably request.

## ARTICLE 15. CASUALTY AND CONDEMNATION

15.1 Damage or Destruction. If the Premises are damaged by storm, fire, lightening, earthquake, other element, or any other casualty not due to Tenant's gross negligence, Landlord shall use the insurance proceeds to repair the damage in a reasonable time (but not to exceed sixty (60) days of the casualty), but the rent shall not be abated unless the Premises are thereby rendered uninhabitable in whole or in part. If the Premises are thereby rendered uninhabitable only in part as determined by Tenant, the rent shall be abated in proportion to the part rendered uninhabitable. If the Premises are thereby rendered wholly uninhabitable as determined by Tenant, the rent shall be entirely abated during the period of repair. If the Premises cannot be restored to its prior condition within sixty (60) days of the casualty, Tenant may terminate this SubLease by giving notice to Landlord in writing; provided however, if the damage is due to the gross negligence of Tenant, Tenant may not terminate the SubLease. In the event of such termination, the rent shall be apportioned to the termination date and the Parties need not repair or restore the Premises.

15.2 Eminent Domain. In case the whole of the Premises shall at any time during the said term be taken by any public authority for any public use, the entire damages which may be awarded for such taking shall be apportioned between Landlord and Tenant. In case only a part of the Premises shall be so taken for public use, the rights, duties, and obligations of Landlord and Tenant shall be determined by taking into consideration the quantity and value of the land taken, the extent of the injury thereby caused to the building, the costs of restoring the building, the value of the building if restored, the period of the unexpired term of this SubLease, and all the other material facts and circumstances. Other factors to consider include: that the whole or any part of the damages awarded by the public authorities for such taking shall be applied to the restoration of the building which may be upon the Premises at the time of such taking; that such damages shall be apportioned between Landlord and Tenant to be paid to either one of them; that the whole or any part of the rent shall be abated from the time of the taking or for any less time; that the SubLease shall be otherwise modified; or that the SubLease shall terminate. Tenant shall have the option to terminate this SubLease if a condemnation or threat thereof, as defined above, results in a taking of all or a portion of the Subleased Premises and such taking precludes Tenant from conducting its normal business operations for a period of at least thirty (30) days.

## ARTICLE 16. MISCELLANEOUS

16.1 Severability. Any provision of this SubLease which shall prove to be invalid, void, or illegal shall in no way affect, impair, or invalidate any other provision hereof, and the remaining provisions hereof shall nevertheless remain in full force and effect. If the intent of any Articles of this SubLease so indicate, the obligations of Landlord and Tenant pursuant to such Articles shall survive the termination of this SubLease.

16.2 Governing Law. This SubLease shall be governed by and construed in accordance with the laws of the State of South Carolina.

16.3 Entire Agreement. This SubLease contains the entire understanding between the Parties and supersedes any prior understanding or agreements between them respecting the subject matter. No representations, arrangements or understandings except those fully expressed herein, are or shall be binding upon the Parties. No changes, alterations, modifications, additions or qualifications to the terms of this SubLease shall be made or be binding unless made in writing in the form of an amendment to lease and signed by each of the Parties.

16.4 Benefit and Binding. This SubLease and the terms and conditions hereof shall inure to the benefit of, and be binding upon, the Parties, their successors, and permitted assigns.

- 16.5 Headings. The headings of Articles and Sections of this SubLease are not a part of this SubLease and are intended solely for ease of reference. Such headings shall have no effect upon the construction or interpretation of any part hereof.
- 16.6 No Waiver. No failure on the part of either Party to enforce any term, covenant, or condition contained herein, nor any waiver of any right hereunder by either Party, unless in writing, shall constitute a waiver of such right or affect the right of such Party to enforce the same in the event of any subsequent breach or default unless the waiver shall be in writing signed by the Party waiving its right(s).
- 16.7 Rights Cumulative. The rights given to the Parties herein are in addition to any rights which may be given to Landlord and/or Tenant by any statute or otherwise.
- 16.8 No Merger. There shall be no merger of this SubLease or of the leasehold estate hereby created with the fee estate in the Premises by reason of the fact that the same person acquires or holds, directly or indirectly, this SubLease or the leasehold estate hereby created or any interest herein or in such leasehold estate as well as the fee estate in the Premises or any interest in such fee estate, unless the parties signify in a written instrument their intent that such estates shall be merged.
- 16.9 Force Majeure. In the event that Landlord or Tenant shall be delayed or hindered in or prevented from the performance of any act required hereunder by reason of strikes, lockouts, inability to procure labor or materials, failure of power, fire or casualty, acts of God, riots, insurrection, war, or other reason of like nature, then performance of such acts shall be excused for the period of delay and the period for the performance of any such act shall be extended for a period equal to the period of delay.
- 16.10 Modification. None of the terms, covenants, or agreements of this SubLease shall in any manner be altered, waived, or changed except in a written instrument signed by both Parties, with a formality hereof.
- 16.11 Bankruptcy. In the event Landlord is involved in any bankruptcy or insolvency proceedings and Landlord's or the Court's Trustee fails to perform or rejects any of the Landlord's obligations under this SubLease, Tenant shall have the option to terminate this SubLease.
- 16.12 Recording. The Parties agree that this SubLease shall not be recorded, but a Short Form SubLease or Memorandum of SubLease, complying in form with applicable state law, shall be executed setting forth the description of the Premises, the Term of this SubLease and other pertinent provisions.
- 16.13 Tenant's Right of First Refusal. Except with regard to a sale or transfer to an affiliate of Landlord, if Landlord receives a binding offer to purchase its interest in the Premises, Landlord shall notify Tenant in writing ("Landlord's Sale Notice") of the person/entity desiring to purchase Landlord's interest in the Premises and the purchase price for such sale. Such notice shall also include a copy of such offer. Tenant may, within thirty (30) days after receipt of the Landlord's Sale Notice, elect in writing to purchase Landlord's interest in the Premises at the price and on the terms stated in the Landlord's Sale Notice. If Tenant elects to purchase the Premises, Landlord and Tenant shall close the purchase of the Premises for cash or on the financing terms set forth in Landlord's Sale Notice within ninety (90) days after the date of Tenant's election. If within such 30-day period, Tenant does not elect in writing to so purchase the Premises, Landlord shall thereafter have the right to sell and convey its interest in the Premises to the person or entity at the price and on the terms stated in the Landlord's Sale Notice. If Landlord does not so sell and convey its interest in the Premises within six (6) months of Tenant's election not to purchase the Premises, any later proposed sale by the Landlord shall be deemed a new determination by Landlord to sell and convey its interest in the Premises and shall again be subject to the provisions of this Section. The rights of Tenant contained in this Section shall continue with respect to the Premises and shall be binding upon any new owner of the Premises after any sale of the Premises or any sale or transfer to an affiliate of Landlord.
- 16.14 Landlord Not A Partner. For avoidance of doubt, nothing herein contained shall be deemed or may be reasonably construed as creating the relationship of associate, principal and agent or of partnership or joint venture between the Parties hereto, and the Medical and Wellness Center is not and cannot be reasonably construed as an Instrumentality or *Alter-Ego* of the Landlord; it being understood



